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Mr. Pat O'Brien

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• (0920)

[English]

The Chair (Mr. Pat O'Brien (London—Fanshawe, Lib.)): I would like to call to order the 29th meeting of SCNDVA, the House of Commons Standing Committee on National Defence and Veterans Affairs, now in open session.

I am very pleased to welcome again before the committee, unfortunately for the last time in his capacity as ombudsman, Monsieur André Marin.

Welcome to you, sir. Speaking as an individual, before I welcome your opening remarks, I want to say that I think you have done outstanding work for the men and women of the Canadian Forces. You and I have met a number of times, and I say this in a very serious way. Probably the best testament to the fact that you have done your work well is that you have annoyed a number of people. Good for you. Well done. We wish you the best in your new position, and we're very happy to hear your thoughts as you leave this important job.

Mr. André Marin (Former Ombudsman for the Canadian Forces, As an Individual): Thank you very much.

Mr. Chair, I in turn would like to express my appreciation as well to you and to the committee for your exceptional work in the last ten years. I have been following the committee's work very closely. The committee has shown what can be done within parliamentary committees when the committee works in a non-partisan fashion, particularly in this case, in supporting the issues that are close to the welfare of troops. This committee has distinguished itself by being able to cut through all the complexities of the bureaucracy, all the fronts, the spin, and the PR, to get right to the heart of issues. For that, I commend the committee.

[Translation]

I'm delighted to be here this morning, even though I officially left office on March 31. I really wanted to meet with the committee one last time in order to express my appreciation for your efforts and to invite you to go one step further in your examination of the mandate of the Ombudsman's Office and to consider possible changes to that mandate.

[English]

I want to start my opening remarks, Mr. Chair, by talking about my affection and my high regard for the Canadian Forces as an institution. The members of the Canadian Forces are asked to step into conditions that no other Canadians are expected to step into. For that reason, they require special protections. Sometimes you hear,

“Well, why do we have an ombudsman like you when they exist in Health or in other departments?” It's for one very good reason. Other departments don't have this kind of control over people's lives, they don't function by orders, and they don't expect their employees to risk their lives, like we do in the Canadian Forces. So forces members require those protections.

I'd also like to talk briefly about my appreciation, my high regard, for the senior leadership of the Canadian Forces. I think they also do an exceptional job. But what makes them exceptional leaders is the structure that often causes the same issues, so the negative part is a byproduct of that greatness. That's why we require appropriate civilian checks and balances in the form of the ombudsman's office.

Last week, Mr. Chair, I presented the ombudsman's white paper. The report has been distributed to all members, and I'd like to focus on some of the highlights of the report.

I note that this committee has been hearing evidence from senior military leaders this week. You've been hearing a lot about the new vision for the Canadian Forces, which, I'm the first one to admit, is impressive. The government has committed to a brand-new infusion of funds on the one hand; on the other hand, you have leaders who are prepared to bring the institution to new ground and who have a new, fresh vision for the role of the Canadian Forces. However, all of this new vision is not accompanied by any kind of motivation to improve oversight of the Canadian Forces.

As you inject \$13 billion in new money, recruit 8,000 new people, and send the Canadian Forces in a brand-new direction, that's all great. But with that comes the question of what we are doing to improve the checks and balances. In my submission, Mr. Chair, this is where this committee should play an important role in reminding the organization that it needs to strengthen oversight.

I was told by former ombudsman Stephen Owen, who is now a member of the cabinet, that the best opportunity for me to talk about reform was when I was leaving, because that's when my voice would be the loudest. Often when we talk about reform, those who don't like the ideas have a tendency to suggest that you're empire-building and you want more power. I stand before you today as a simple citizen. I'm not the military ombudsman, I'm the ombudsman of another government department, so I stand to gain nothing out of what I'm saying today—unless they decide to come and rehire me once the statute is passed, of course, but I won't hold my breath.

So I submit to the committee, Mr. Chair, that oversight is currently in such a mess for the military that it couldn't be messier if people had intended for it to be messy. It's messy because it's incredibly confusing. It's confusing because soldiers don't know where to go when they have a problem. Do they go to the Military Police Complaints Commission? Do they go to the ombudsman? Do they have access to the civilian grievance board? Or are they left to the forces' grievance system? For a while, we were put in a strange position in which even people administering these different functions had different versions of their functions—and they still do. So it's a very confusing system.

It is a very expensive system. The Military Police Complaints Commission is overkill on the one hand because it costs \$56,000 for the simplest of cases to be examined by the Military Police Complaints Commission. But it's underkill because their statutory mandate doesn't allow them to do a lot of work, quite frankly. For example, an interference complaint in a military police investigation can only be lodged by a military police officer. So if you're the subject matter of a military police investigation and you feel there has been interference in that investigation, you can't complain, which is absurd. You have to be a police officer in the military police in order to complain. It's hard for a mandate like that to work.

● (0925)

It is extremely expensive. I've talked about the average cost of a case to the Military Police Complaints Commission being \$56,000. An average case that goes to the grievance board costs \$100,000 on average. That is the finding of retired Chief Justice Antonio Lamer.

It is a system that doesn't have a lot of teeth, and it is a system that duplicates itself administratively. As a result of this system—and I'm prepared to elaborate if there are some concerns or questions on that point—we've put forth several recommendations, and I'd like to talk about three or four of them.

One recommendation is to eliminate the Military Police Complaints Commission. The Military Police Complaints Commission is a white elephant that costs an enormous amount of money to administer, and it does only a handful of cases per year. I think it was well intentioned, and what I'm saying is not a reflection on the competence or skill of the people there. I'm talking about the institution as a legislated institution. There is no work that is currently done by the Military Police Complaints Commission that couldn't be handled for pennies a case by the ombudsman's office.

The second recommendation I'd like to talk about this morning, Mr. Chair, is the rationalization of the network of dispute settlement mechanisms. We have recommended that there be concurrent jurisdiction between the grievance system and the ombudsman's office. As it stands right now, a soldier is forced through the formal grievance system before having access to our office, absent compelling circumstances. There have only been a handful of cases over the last seven years that we've taken out of the system. It doesn't make any sense. Why would you want the formal, adversarial grievance system that will take months and years to go through a case before it comes to the ombudsman's office?

One of the last reports we did was on a soldier who had been denied a mortgage differential allowance of \$3,500 in 1992. It took

twelve years before he was able to come to the ombudsman's office over \$3,500. He's now retired.

In my submission, then, the ombudsman's office is the informal route to go, and it would cut back enormously on the number of grievances that are currently heard. There should be an alternative route.

The one argument that we often hear against this is that it would be duplicating the work of the grievance system, but it's not. The grievance system decides an issue, whereas the ombudsman makes a recommendation. Ultimately you're not losing out by allowing the less formal means to make a recommendation, because ultimately you still have the grievance system that rules the day.

The third recommendation we've made is to strengthen oversight. There's a provision that makes me the delegate of the minister. I've always understood this, and I've published an op-ed piece in today's *National Post* on this particular point. As a delegate of the minister, I always viewed that as empowering the office. When I go in and look for resolution to a case, I use the authority of the Minister of National Defence as influence to get a case resolved. Strangely, however, that has also been used against the office by someone saying that if I'm acting on behalf of the minister, then I'm political, so how can I get involved in this case?

So we need to do away with the ombudsman being a delegate of the minister. The ombudsman has to be able to act

● (0930)

[*Translation*]

on his own initiative. He must be able to act as an arbitrator and impartial investigator, and work independently of the Minister of National Defence.

The fourth recommendation, which ties in with what we presented last week, calls for the Ombudsman's mandate to be enshrined in legislation.

[*English*]

We need to improve the vehicle of the office and put it in a statute, whether it's the National Defence Act or another statute. When the office was created, it was a pilot project: we don't know whether the whole chain of command will crumble, so let's start off with this ministerial directive and see where it leads us. That was seven years ago, and the chain of command still operates with the same kind of authority. In fact, I think it's strengthened by the ombudsman's office. I think the time has come to use the opportunity to clean up the mandate along those lines that I've suggested, as well as giving it proper legal foundation.

In so doing, expand the mandate to cover Veterans Affairs. I have in the room today two Gulf War veterans who have supported the committee's work and have come here to lend their support this morning to the ombudsman's office. They have been strongly advocating that there's no logic to someone taking his uniform off and losing access to the ombudsman's office. I bring those two distinguished former members to your attention, and I think there's a strong case to fix that.

[Translation]

Once again, I'd like to thank the committee for its support. I would be happy to answer any questions, Mr. Chairman.

[English]

The Chair: Thank you very much, Monsieur Marin.

I obviously should have noted that you're joined today by Barbara Finlay, the interim ombudsman.

Ms. Finlay, did you wish to make any comments before we go to questions?

Mr. André Marin: Actually, Mr. Chair, I was supposed to introduce Ms. Finlay, and I do apologize for this lapse.

I would like to take the opportunity to introduce Ms. Finlay to the committee. Ms. Finlay has accompanied me before in testimony before the committee. She's well known to committee members.

I was absolutely delighted when the Minister of National Defence invited her to take over the post on an interim basis. I think Ms. Finlay will be able to offer continuity of service to members.

I've worked closely with Ms. Finlay for the last ten years in this job and other jobs. She's an outstanding intellectual and is very committed to her job. I have the honour today to introduce her and to invite the committee to offer her the same kind of support that the committee has offered to me.

So without further ado...

• (0935)

The Chair: Thank you very much.

That's a pretty good introduction. Would you like to make any comments?

Ms. Barbara Finlay (Interim Ombudsman, Office of the Ombudsman, Department of National Defence): Thank you very much for the opportunity to be here today to address the committee.

[Translation]

I would also like to thank Mr. Marin for his comments, for supporting me and for recommending me as Interim Ombudsman to the Minister. I'm delighted to take on this responsibility, even if only on an interim basis.

[English]

I can tell you that when the minister informed me that I'd be given the opportunity to act as interim ombudsman, I assured him that it was my intention to keep things running on a business as usual basis, and to continue doing the good work that we've been able to do for the past seven years under Mr. Marin's leadership. The minister was very supportive of this.

I'm very happy to be able to take up the helm and to ensure that the office keeps going while a permanent ombudsman successor is found. I'm also very happy that my interim appointment will give the minister and the government the time necessary to find the right person to take up the job, and I'm happy to be able to fill in in the meantime.

[Translation]

Sometime in the next few weeks, we will be tabling to the Minister the 7th Annual Report of the Ombudsman's Office. I consider this report to be our best one to date. Our Office has had a very busy and productive year. It has resolved numerous complaints, conducted several investigations and published a number of leading reports on such challenging issues as decompression, boards of inquiry and the inquiry into the deaths of CF members.

Over the course of the coming months, we will also be presenting two additional reports to the Minister on environmental exposure and post-traumatic stress syndrome.

[English]

The latter will be a follow-up to the original recommendations we made in the McEachern report.

We have a lot on our plate for the coming months. We intend to continue resolving problems, investigating systemic issues, and making hard-hitting findings and recommendations wherever necessary. My message here would be that I want to assure you that we're going to continue with business as usual in the office. That's certainly the message we're going to be giving out to the members of the DND/CF community, soldiers, and their families.

The Chair: Thank you very much.

Just before questions, Monsieur Marin, you indicated that you had a couple of our Gulf War veterans with you as well. Let me invite you to indicate who they are. We certainly welcome them and thank them very much for their service to this country.

Mr. André Marin: One is Sean Bruyey, and the other is Louise Richard.

The Chair: Welcome to you both, and thank you very much for your good service to Canadians.

I'm going to break the normal mould and ask the first questions. My colleagues know I hardly ever do that, but it's really for clarification.

You mentioned that before soldiers can come to your office, they have to go through the grievance process. This may be an obvious or simplistic question, but I think it's worth clarification. If they tried to come directly to you, I assume they wouldn't be physically constrained, but would they be subject to disciplinary action or some sort of systemic intimidation? Is that the case?

Mr. André Marin: It shouldn't happen. According to my mandate, what I'm supposed to do is refer them back to the chain of command's grievance system. That's the problem. As a normal course of action, unless I deem it to be an exceptional circumstance, my mandate does not allow me to take the case, so soldiers wonder what the point of having an ombudsman is if they're going to have to spend twelve years in the grievance system.

The problem with the grievance system is that it's very adversarial. You have to write up a paper, you grieve, people's backs are against the wall, and the chain of command needs to protect itself. It's a very entrenched system. In this day and age when you're trying to make dispute resolution less adversarial, you're trying to find middle ground, the grievance system is not a vehicle to do that.

The Chair: Thank you very much for that clarification.

Let's go right to questions now. We'll start with Mr. Casson, for seven minutes.

Mr. Rick Casson (Lethbridge, CPC): I thank all four of you for being here today.

Mr. Marin, you've outlined or put forward a proposal, I suppose, to streamline—I don't know if "streamline" is the right word—to better facilitate the issues that come forward to your office and to other offices. You're suggesting that the military grievance system be changed. I think that's what you said, that they should come to an ombudsman's office first, that you'd be the place to go to get away from this adversarial process.

Ms. Hinton and others who are on the veterans affairs subcommittee have just seen a real reorganization that's proposed there. I know there's somewhat of an overlap—you've referred to that—with active members of the forces and the veterans. Certainly the ability for veterans to be dealt with efficiently, properly, and rightly is an issue.

Given the process you're suggesting and the structure you're suggesting, are you overwhelmed at present? Are the resources that you have, be they physical, money-wise, in terms of research capabilities, or whatever, far short of being what they need to be to deal with the issues you're faced with? If the process you've suggested goes through and the structures that you're suggesting are put in place, how much more would be needed in terms of resources to deal with all of the issues that have come forward efficiently, effectively, and in a timely manner, from both aspects, active and veterans?

• (0940)

Mr. André Marin: It would really depend on the extent of the changes, exactly which ones are accepted, and how they fit in. But the office's infrastructure is still there and the administration is there, so I don't think it would be a huge infusion of new money. I think "modest" would probably be a good description to use.

Right now, we do have adequate resources. We operate as a very lean office because we're aware of the pressures put on resources right now, especially when dealing with the military. So the resources are adequate, but I would think a modest increase would allow us to do a whole new line of cases. I don't have a specific figure to offer you this morning, though, because we haven't costed it out. It really would depend on what's accepted and how far the government is prepared to go with it.

Mr. Rick Casson: Would it be a savings when you indicate how much it costs to deal with a few the old way?

Mr. André Marin: Absolutely. That's a very good point.

Right now, the budget for the ombudsman's office is just a little over \$5 million, the Military Police Complaints Commission's is \$4 million to \$5 million, and the grievance board's is around \$5 million to \$6 million. If you look at the cash that it's costing to run all these civilian bodies.... And then you need parallel organizations at NDHQ to act as points of contact and to administer what's coming out of these different agencies. So you're easily talking about tens of millions of dollars. It's not just the ombudsman's office; it's all of

what you put together at NDHQ to deal with everything that's outputted by these different agencies and boards.

With the implementation of these recommendations, including abolishing the MPCC and providing a concurrent jurisdiction—because we're not saying to abolish the grievance system, we're just saying to have the ombudsman act as a complement to the grievance system—it would cut back on a lot of the paperwork and bureaucracy at NDHQ to deal with the grievance system. It would easily pay for itself.

Mr. Rick Casson: On the aspect of changing it from being somewhat of a recourse of last resort—to come to you—to it being more of a front door, would people start with this office?

Mr. André Marin: Yes, they could start there. It would be up to the complainant to decide. It would be an alternative route—the ombudsman or the formal grievance system. I think the ombudsman could then resolve a lot of the issues before a complainant would need to actually launch into a grievance.

Mr. Rick Casson: But if you're going to do away with some of these other systems, as you're suggesting, is that alternate route still there?

Mr. André Marin: It could be, because we're not saying to abolish the grievance system; we're saying to abolish the Military Police Complaints Commission.

Mr. Rick Casson: That portion of it, okay.

Mr. André Marin: Yes. And you'd still have the formal grievance route available, but I would think they would have a lot less work to do.

Mr. Rick Casson: Anybody else can go ahead if I have some time left.

The Chair: Betty.

Mrs. Betty Hinton (Kamloops—Thompson—Cariboo, CPC): It's always a pleasure to listen to what you have to say, and I suppose there's a great deal of truth in making your loudest statement on your way out the door. It probably will be heard very well.

I just want to express my appreciation for the job that you've done. I haven't had an opportunity to work with you for very long, but I've certainly had an opportunity to see what it is that you're doing for our military, and I appreciate it very much.

• (0945)

Mr. André Marin: Thank you.

Mrs. Betty Hinton: I've just been making notes, and I'll be taking all of this into consideration when we sit down again and make recommendations for further steps to improve the system that we have in place today for veterans.

I really don't have anything else to say except that I wish you the best of luck in your next endeavour. I think their gain is our loss.

Mr. André Marin: Thank you very much. I'm very appreciative of your supportive comments. It's not without a lot of thought that I am moving on.

I wanted to point out that as this committee deliberates and looks at ways to strategize on how to have the best impact in dealing with these issues, there's a lot of unfinished business that will have to be dealt with in the National Defence Act. For example, it may come as a surprise to some to find out that military judges have to be reappointed every five years. Retired Justice Lamer had some very strong words to say about that. These judges send people to jail. It's unheard of in the civilian world that a judge who sends people to jail has to be reappointed every five years.

The military justice system and the way it's sold would have you believe that it's virtually at par with the civilian system, but there's still a lot of work to be done. Only baby steps have been taken so far, so the legislation will have to be reopened to deal with those issues and others. This would be a perfect window of opportunity to amend the legislation to deliver these things. You wouldn't have to introduce a whole new act of Parliament dealing just with the ombudsman's office, because the act will have to be reopened to deal with these issues. It will be a unique opportunity for this committee to be very proactive and to say, "As you're opening the act, why don't you do these things?"

The Chair: I think I'm safe in speaking for my colleagues here when I say that when we finally do get into the defence review, the role of your former office is certainly going to be an important part of our discussions.

That is it for Mr. Casson's time, so now I'll go to
[Translation]

Mr. Bachand. You have seven minutes.

Mr. Claude Bachand (Saint-Jean, BQ): Thank you, Mr. Chairman.

I too would like to take the opportunity to congratulate you on your excellent work. I know that your job is not always easy. I agree with my colleagues that an ombudsman may do his or her most important work in the twilight of their career. You've held this position for a number of years and now, you're making your final recommendations before leaving office. These recommendations represent your legacy, in some respect, and that's important. This is an opportunity for you to spell out the direction that you feel the Ombudsman's Office should take, and under improved circumstances.

We, as Members of Parliament, and you, as a public servant, always strive to improve conditions. When one is poised to leave one's position, one can point out to his or successor those areas in need of further work. We also appreciate your coming here to convey this message to the persons responsible for making our laws.

I also know that governments believe that all problems can be solved by creating and spending a lot of money on a new structure. DND as well as other departments seem to believe that problems can be resolved by taking this approach. In response to a request, a position was created, money was spent on this office and now, people want to give this position a legal foundation, believing that when this happens, everything should run smoothly. However, that's not how things work in the real world.

I'm pleased to see that you have made some recommendations and I'd like you to share your thoughts with us, as outgoing ombudsman.

I realize that you have tackled on the culture of the Canadian Forces. I believe you've stated this on several occasions. Could you identify for us those areas in which you have encountered the most resistance? You're in a privileged position. You're not going to be in the office next week to field a call from the judge advocate general telling you how he did not appreciate your comments to the National Defence and Veterans Affairs Committee. Therefore, as lawmakers, we believe it's important for you to tell us about the kind of resistance you encounter as well as the obstruction tactics that are employed.

For example, does the judge advocate general have your full cooperation? Can you rely on his full cooperation? Are senior departmental officials and those in the minister's office sending out a strong enough message that they endorse your work? Are the three-star or more generals ensconced in their offices on the 13th floor of DND headquarters convinced that your job is important? Are they getting this message? Do you not feel that all too often, reasons such as confidentiality, professional secrecy and jurisdictional conflicts are invoked as means of obstructing the process? Some insiders may feel that the ombudsman shouldn't be concerned about certain things because that is their responsibility, the justification for their job. Do you not agree that such individuals may cause problems for the ombudsman and directly challenge his mandate?

I'd like to hear your views on this subject, as much as possible. As you know, your problems will be over next week, but I do believe you can accomplish something important here today.

● (0950)

Mr. André Marin: Thank you for your question. There's no doubt that DND's legal experts, including staff in the office of the judge advocate general, have not supported the Ombudsman in the course of his extensive deliberations over the past seven years. I think their objections were philosophical, rather than legal, in nature. Quite often, philosophical objections tend to be couched in legal terms to lend an aura of mystery to the proceedings. However, in reality, their objections are philosophical because military lawyers wear a uniform and civilian lawyers work very closely with them. I really don't see much of a difference between the two. They want to protect the chain of command. They want to ensure that military justice remains the domain of military lawyers and that the Ombudsman's Office is thrown the crumbs, after the military lawyers have finished with a case.

Over the last seven years, all kinds of objections have been raised. If we dig a little deeper, we can establish a direct link to the office of a military lawyer, whether that person is in uniform or not. During that same period of time, other opportunities arose to improve the way in which the mandate is applied. One such opportunity presented itself when the former Chief Justice of the Supreme Court, Justice Lamer, conducted an in-depth study of the military justice system to determine if the amendments to Bill C-25 passed in late 1998 had had the desired effect. Justice Lamer's review focussed on the judicial system and on the military judicial system as a whole. Military lawyers objected to the fact that Justice Lamer's mandate included our office. He informed me that although he had been prohibited from doing so, he was prepared to include the operations of the Ombudsman's Office in his review. Therefore, an important opportunity was missed to correct the problem. I think the objections of military lawyers are well known.

Secondly, on looking at the various components of the Canadian Forces, we note that the land forces have a very hard time accepting the duties of the Ombudsman. Two thirds of the complaints received originated with the land forces, which appear to be more staunchly opposed than other CF components.

Lastly, we found that we received strong support from individual ministers over the past seven years. This was true of Minister Eggleton, Minister McCallum and Minister Graham. All of them have accepted the role of the Ombudsman's Office, but the support of their political advisors hasn't been quite as vocal. As it happens, these political advisors work very closely with the chain of command. We've observed that these political advisors are occasionally manipulated by the chain of command, precisely to put obstacles in our path. Personally, I've had to turn to ministers to ask for their support. The minister shouldn't have to get involved merely to allow the ombudsman to do his job.

That pretty much sums up the three kinds of obstacles that we have encountered in the last seven years.

If the federal government accepted our recommendations and entrenched the ombudsman's mandate in federal legislation, this would constitute, hopefully, a clear sign of its support. This move would send a very clear message, namely that obstacles should give way to stronger support for the Ombudsman's Office.

• (0955)

The Chair: Thank you, Mr. Bachand.

[English]

Again for clarification, Monsieur Marin, it was translated—and I'm sure it was correct—that the minister's political advisers are not always as enthusiastic as various ministers have been. Are you talking about the bureaucratic civil side of the military at DND, or are you talking about the minister's own people?

Mr. André Marin: The minister's own staff.

The Chair: The minister's closest staff?

Mr. André Marin: Yes, the minister's own staff, and we've been disappointed by the lack of support over the years from the political staff.

What happens, Mr. Chair, is that the political staff works very closely with the senior command in the military. Because we operate at arm's length from the organization, the political staff gets to see us infrequently, but they work very frequently and very closely with the military leadership. I've likened it a little bit to the Stockholm syndrome. Since they're working hand in hand with the military, if the military wants to oppose us, they make us look like we're on the wrong side of an issue, and that gives us issues to deal with.

I also believe that because we cause the minister's attention to be put on issues that we present publicly, that causes an issue to rise from the bottom of the pile to the top of the pile. I think political staff see their role as insulating ministers from having to make tough decisions.

The Chair: Oh, you've noticed that too.

Some hon. members: Oh, oh!

Mr. André Marin: Yes, and that's unfortunate. But I hope that as the office matures, there will be a greater sophistication on the part of the minister's political staff and they will be able to look deeper into the real issue, which is that these problems perhaps need to go from the bottom of the pile to the top of the pile and need to be addressed.

The Chair: Thank you very much. I hoped you weren't going to say that, but if that's the case, then that's the case. I don't know, but if I were a minister and I was enthusiastic about something and had staff who weren't also enthusiastic, I don't think they'd be my staff for long. But that's another problem.

Monsieur Bachand's time is up.

Thank you for those very good questions.

Mrs. Longfield, please, for seven minutes.

Hon. Judi Longfield (Whitby—Oshawa, Lib.): Thank you.

Following on the comments by Mr. O'Brien, the chair, a number of us have been frustrated by the power of being elected.

Following on Mr. Casson's questions, a number of the points I want to cover were being covered by him, so I want to just say something very briefly. If someone has a complaint, they go to their superior officer or someone higher in command. If it's not resolved, it could go to the Office of the CDS. If the CDS is not happy, then it goes to the grievance board. It goes to the grievance board, it stays there forever and ever, and then it could go to the MPCC, and only after that would it come to you. Is that pretty much it?

Mr. André Marin: No, there's just a couple of qualifiers. Your question actually illustrates the complexities of the system and how confusing it is for the rank-and-file members to complain.

If a member has a complaint about something that can be grieved, it has to be grieved through the formal system. That's one of the principles. The formal system includes the first level and the second level, which is the Office of the Chief of the Defence Staff. The CDS has delegated his authority to an office called the Director Canadian Forces Grievance Administration. Certain types of grievances can go out to the grievance board before going to the grievance administrator acting on behalf of the CDS. That's one set of cases.

In other cases, if they deal with issues that fall within the strict mandate of the Military Police Complaints Commission—for example, complaints of interference in a police investigation—they have to go through the MPCC, out of the grievance system. They don't go through the grievance system, they go straight to the MPCC. The MPCC can monitor cases, can make recommendations to the Provost Marshal, can have hearings—different things can happen.

On top of that, you have the ombudsman. The ombudsman acts as the final oversight body for the whole system, including the grievance system and the Military Police Complaints Commission. The ombudsman can also take cases out of the grievance system if there are compelling circumstances.

So my explanation sounds convoluted and complicated, but unfortunately that's because the system is convoluted and complicated. There's no easier way to explain it.

• (1000)

Hon. Judi Longfield: How many would you take out of the grievance system in a given year, as an average over your past six and a half years?

Mr. André Marin: We've taken a handful every year. Over the last seven years, I'd say 10 or 12 cases were taken out of the grievance system for compelling circumstances, out of the 9,000 cases we've dealt with.

Hon. Judi Longfield: So you get 9,000 cases.

Mr. André Marin: We've dealt with 9,000 cases in the last seven years.

Hon. Judi Longfield: It doesn't look like the MPCC gets very many cases, so taking it out of the thing wouldn't make a whole hell of a lot of difference, except that doing so would free up \$3 million or \$4 million that could be put to use someplace else.

Mr. André Marin: They do three or four actual investigations a year. Most of their cases are monitoring. In other words, they look at paper trail, paper cases.

Hon. Judi Longfield: Do they have any ultimate authority at the end of the day? Do they just make recommendations? Do they make a final decision? Who does that?

Mr. André Marin: The only person who can make a final determination through all these systems is the Chief of the Defence Staff. When the ombudsman makes a recommendation, the final word goes to the minister. If it's a military police complaints matter, most likely the recommendation would be to the Provost Marshal, who's like the chief of police.

Hon. Judi Longfield: So if we removed the MPCC, it would start off the same way. They'd still go to a superior and they'd still try to resolve it. It would still go to the office of the CDS in that other capacity, and at that point they could then go straight to you. Is that what you're—

Mr. André Marin: That's right.

Hon. Judi Longfield: That seems to make a lot of sense.

Really, those are all my questions. My other ones were covered before, so I would turn over the rest of my time.

The Chair: And the rest of your time is three minutes for whoever would...Mr. Bagnell.

Hon. Larry Bagnell (Yukon, Lib.): Could you give a quick outline of the size of the staff in the office?

Mr. André Marin: There are fifty on staff.

Hon. Larry Bagnell: Could you give any description of a similar role in other militaries of some of our neighbouring nations, and how they work or are different from yours?

Mr. André Marin: Yes. Thank you for the question.

Mr. Chair, Australia has the Defence Force Ombudsman, who ultimately makes recommendations to the Prime Minister of Australia. Israel has had a military ombudsman since the early seventies, and their ombudsman reports to the Israeli Parliament. And they all have statutes, by the way. Ours is the only military ombudsman office in the western world without a statute.

So in Israel, the military ombudsman reports to Parliament, does welfare, and deals with the soldier issues. The title is Soldiers Rights Commissioner.

And the Netherlands has a military ombudsman who operates out of a palace, because the first military ombudsman was a prince. We're not looking for the palace yet. All we want is a statute. He also has a statute and reports to the Dutch Parliament.

Germany has had a military ombudsman since World War II, and he again reports to the German Parliament.

These are all military ombudsmen's offices that have a role similar to the one our office has. The closest in terms of structure in the military would be the Australians. But these are all the kinds of offices that I'm aware of that are out there. Of course, there are also other oversight mechanisms. There are inspectors general. The United States has an inspector general who reports to Congress.

So there are different ways to provide oversight, but those are the ombudsmen that I am aware of.

Hon. Larry Bagnell: When they have all these cases—you mentioned 9,000 cases—and they report to Parliament or the Prime Minister or Congress, they don't report all of them. That's not the only way of resolving the 9,000 cases, is it?

Mr. André Marin: No, they all have their grievance systems too. They have their internal mechanisms, and the ombudsman acts as a final oversight body in all those jurisdictions.

Hon. Larry Bagnell: But the ombudsman tries to deal with the thing before going to Congress or the Prime Minister.

Mr. André Marin: Yes, absolutely.

The Chair: Monsieur Marin, I know you and I talked about this at some length one time. You've been calling for legislative or statutory standing—whatever the right phrase is—for some time, and you haven't been winning that argument so far, obviously. If we're the only ones without that, I hope we do win it.

What is the principal objection? Secondly, in your view, in what country does the role of ombudsman work the best? I think we're just curious about that. What's the objection to putting it into legislation? Are they hoping this office will disappear or something?

•(1005)

Mr. André Marin: On the objection to putting in legislation, the one we've been hearing the most is that if we're doing all this great work, we don't need a statute. My answer is that there's a lot of really good work that we haven't tapped. We have objections and obstructions in cases. It's like pulling hair to do cases. The Privacy Act is used as a shield when it shouldn't be. The solicitor-client privilege is used as a shield when it shouldn't be. And there are all of these artificial constrictions on our mandate, one of them being that I'm a delegate of the minister. When we try to probe things that are more sensitive, we're being told, "You are a delegate of the minister. You're part of the executive. How could you be involved here if you're representing a political entity?" So a statute is required to fix all those problems.

We've succeeded not because of our mandate; we've succeeded in spite of our mandate, because we've been prepared to go to bat for members who have problems. We've succeeded because we've had the support of parliamentarians. We've succeeded because we have enormous public support. We've had support from the media. That's why we've succeeded. But we need to be able to do things not by the back door; we need to be able to do them by the front door.

I believe that, fundamentally, the military also believes we are still a punishment for Somalia. But we are new and improved. We're not the old crowd, we're not the old issues. Without legislation, hopefully our office will disappear one day because we'll be so good at doing our jobs.

Another objection we hear is, "Why should we be singled out? You don't have that kind of an ombudsman in other departments. Why should we be singled out once again for torture?" My answer to that is, "You're not being singled out. You have a particular culture that lends itself to particular problems. No other departments issue orders. No other departments control the lives of individuals the way you do."

Finally, there is a lack of support from legal advisers. Many root causes for problems come from the legal offices at NDHQ, and that's the office that I think should take the lead on the ombudsman. They should be testifying here, telling you that the ombudsman needs a statute, but you never hear that because the mentality over there is that if there's a military justice issue, it should be resolved by military lawyers, not by a civilian ombudsman outside the system.

So that's the hierarchy of objections and why we're no further toward getting that statute than we were seven years ago.

The Chair: Thank you very much.

We'll start a second round of five minutes.

Rick.

Mr. Rick Casson: Mr. Chair, you had asked him which—

The Chair: Oh, yes. My second question was if you had an opinion on where this office functions the best in the world. I don't know how our military can say they're being singled out when so many other militaries have the same position.

Mr. André Marin: I like the structure and the impact and the effectiveness of the Israeli military ombudsman's office. I like to use that example. When I use it with senior commanders at NDHQ, I'm

told the Israeli army is a different army with different issues, it's a conscript army, etc. However, I like the example of that office for the very reason that it shows that the military in Israel is considered to be extremely effective and able to do its job while co-existing with an extremely effective ombudsman's office that is reporting to the Israeli Parliament. I like that example because it deals with all this anxiety over loss of power by the military chain of command if there was a statute or if there was increased authority in the military ombudsman's office. It seems to work in that country, and there's no reason why it couldn't work here.

The Chair: Thank you very much. We may want to bear that in mind as we get into our further discussions.

In the second round, we'll cut back to five minutes. We'll start with Mr. MacKenzie, and Mr. O'Connor may join in.

Mr. Dave MacKenzie (Oxford, CPC): Thank you, Mr. Chair.

Mr. Marin, I come from another background that's not unlike what you're talking about. I come from the policing community. We ask our people to do the same kinds of things, to walk in harm's way, and so on and so forth. I was curious about your comment that perhaps the process could go to the ombudsman's office prior to the grievance process, part of the reason being the long, convoluted time it takes to get through the grievance process. Did I hear that right?

•(1010)

Mr. André Marin: Yes, you did.

Mr. Dave MacKenzie: What you're indicating is that partly because that process takes so long, the system could be cleaned up and smoothed out by going to the ombudsman first.

Mr. André Marin: Yes.

Mr. Dave MacKenzie: As an old police chief, I would find that a little bit cumbersome. I understand the problem there, but it would seem to me that the solution would be to fix that grievance process.

Mr. André Marin: That's an interesting approach. It's also one that has been tried at least twice over the last eight years, but the grievance process is still limping along. It takes an enormous amount of time, and it's very expensive.

I think part of the problem with the grievance process is that it's very adversarial, so people get entrenched. That's preventing it from running smoothly, and attempts to fix it have failed twice in the last eight years.

Mr. Dave MacKenzie: If I were on the other side of this equation, my concern would be that if it went to the ombudsman, you might not know what the problem was. The grievance process should have at least identified an issue that could be fixed, one that might be broader than the issue itself, and it could be repaired sooner. I still can't believe we couldn't fix that process.

Mr. André Marin: In the police system you have oversight bodies, police services boards, and so on, that are adjudicative, that decide issues in a way that is binding. Contrary to the police system, Mr. Chair, the worst thing the ombudsman can do in the military context is make a recommendation. The power is still vested in the chain of command to make the final determination—or in the case of the ombudsman, it's the minister. That's a big distinction.

We're not taking it away from the chain of command and saying the military shall do this, and they're forced to do it. We merely make a recommendation. The chain of command is still very much alerted to and aware of what the issue is, because they're the ones who make the final decision. That would be the big distinction between the police system and the ombudsman's office.

We issue special reports, annual reports. I issue quarterly reports to the chain of command. They're very much aware of where the issues are by the reporting we do to the chain of command and to the public. Our involvement in individual cases has to be a recommendation to them, so they become aware of what the issue is while the issue is brought up. I therefore don't see that kind of issue arising, with respect, Mr. Chair.

Mr. Dave MacKenzie: I understand what you're saying, but you don't get to the police services board or you don't get to the Ontario police service unless you've gone through the chain of command in the organization. It has to be pretty tight to get through those grievance processes in a hurry. I guess that's my point. The grievance process needs to be fixed.

Mr. André Marin: Yes, it does.

The Chair: Mr. O'Connor, please.

Mr. Gordon O'Connor (Carleton—Mississippi Mills, CPC): Thank you.

Mr. Marin, I really do support the ombudsman system and I hope it can be improved, but I'm also wary of bureaucracies. I think the disease we live with today is that bigger and bigger organizations are full of bureaucracies. Sometimes if you're sitting on top, the way to deal with bureaucracy is to have competing bureaucracies so that you can sort out what's truth and what isn't truth. We have to be wary of the possibility of creating some enormous ombudsman that eats up everything, like Pac-Man. There has to be some balance, but I won't get into that.

My real question has to do with your recommendation that the issues of Veterans Affairs be answered by your office or the Canadian Forces ombudsman. I was in the military, as you know. My problem in the past was that I was in a situation in which I had two bosses. I had to report to two bosses, and it's a devil if you have to report to two bosses. If the ombudsman had to report to the Minister of Defence and the Minister of Veterans Affairs, whose orders would the ombudsman be taking? Who would the ombudsman be accountable to?

Mr. André Marin: We've given that some thought, Mr. O'Connor, Mr. Chair. If there was a mandate that encompassed Veterans Affairs, the Canadian Forces, and DND, the ombudsman's task would be to clearly identify issues that fall under the realm of one minister or under the realm of the other minister, or identify them as issues that jointly involve both ministers, and then it would be up to them to sort out the issue.

I'm also very mindful about your comments concerning bureaucracy. As we were setting up the office seven years ago, we made sure we operated in a lean manner and didn't eat up resources. If these recommendations are implemented, they will result in less bureaucracy. You'd be doing away with what I consider to be a white elephant, and that is the MPCC, which is a huge bureaucracy that does very little. So I'm very mindful of your comments and I support them fully. I've written this report, this paper, with that idea in mind.

• (1015)

The Chair: All right. Thank you very much.

We now come to Mr. Martin, please, for five minutes.

Hon. Keith Martin (Esquimalt—Juan de Fuca, Lib.): I want to just echo the comments made about the work you've done, Monsieur Marin. We certainly wish you well in your future endeavours in Ontario. I know you'll do a great job. Like you, your officers have been extremely helpful to me and my office for a long time, so thank you.

My question deals with veterans. First, we have a centre for injured veterans. Would that be scrapped in your recommendation?

Mr. André Marin: No, we didn't make any recommendation to scrap any of the existing mechanisms at Veterans Affairs, because we believe we would complement those mechanisms.

Hon. Keith Martin: I'm trying to get this through my head. Obviously you have some concrete solutions. There are concrete solutions in the piece you've put together.

Hypothetically, if you were the Minister of Defence, what would you recommend? What would you put on the table on the floor of the House of Commons, beyond what we've discussed here, in terms of the mandate? Functionally, what would you have in the piece that would streamline the system so that our men and women in uniform and our veterans out of uniform can have their grievances answered in an efficient and cost-effective manner?

Mr. André Marin: Thank you, Mr. Martin.

And, Mr. Chair, I'd like to thank Mr. Martin for his strong support of our office in the last few years. He has certainly been very effective in voicing that support, and that support has assisted us in doing our job.

When we produced this report, we added a draft statute, at page 39. With the help of a legislative drafter, we had a hand in putting in black and white what a potential ombudsman's act could look like. Now, this is only a suggestion. We did it to make it easier for the government to go to the final step.

Right now, there's a prohibition laid out in our current mandate that says we shall not touch Veterans Affairs issues. You just delete that and you make the ombudsman the ombudsman of the Canadian Forces and Veterans Affairs.

Ms. Finlay, you have been very quiet. Would you like to assist me in answering this? You're the one getting the paycheques these days.

Voices: Oh, oh!

Ms. Barbara Finlay: I'd just like to address a couple of points that were raised about Veterans Affairs, first of all.

In terms of the Centre for the Support of Injured and Retired Members and Their Families, this is an organization that we actually work quite closely with. They're front-line workers. They deal with a very high-volume caseload, and they will quite often call our office when they hit hurdles and roadblocks both with the Canadian Forces and with Veterans Affairs. From the interactions that I've had with them—and we've actually just hired one of their staff members to work in our intake office—I actually think we do complement each other. They actually refer a lot of work to us when they need the extra push from the ombudsman's office, so I wouldn't foresee getting rid of that kind of front-line agency at all.

Hon. Keith Martin: Just for your information, in Victoria, a group of current counsellors brought into existence a wonderful program for veterans, particularly those suffering not only from PTSD but other anxiety neuroses related to their work. It might be a good idea to look at that. In Kelowna, there's also a program that counsellors have worked at. It's a psychological rehabilitation program for veterans. It's about six weeks in length, but it has a very effective turnout rate and has been very effective in dealing not only with PTSD but with a number of other psychiatric problems related to work.

The question I have, though, is something I've struggled with—and, Mr. Marin, we've discussed this before—and I don't know how to deal with it. How do we deal with the privacy issues that you've related when it comes to medical problems? On one hand, we have a patient with medical problems, and there are privacy issues surrounding that. On the other hand, we have a chain of command that, for the responsibility of the troops it controls, has to understand the psychological and health well-being of that person, who may be ultimately carrying a C7, for example. How do we manage to balance the challenge between the privacy of the individual and the need for the chain of command to understand the psychological well-being of that person, so that the person can be put into tasks that will be commensurate with what they're able to do, while not putting their fellow troops at risk?

• (1020)

Ms. Barbara Finlay: It's a difficult issue. It's one we looked at a little bit in preparing our operational stress injury follow-up report. I understand the CF has a working group on the issue, because it has been quite problematic, from what I've been told.

I think it's really an issue of education on both sides. From my little knowledge of the problem, it seems to me that there was not a lot of interrelationship between the two groups before, so you didn't have a real understanding. There seemed to be a need for a better understanding and education on the chain of command side in terms of what the medical side and the counsellors and social workers were doing, what their needs and objectives were. There also needed to be an education on the other side—and among members as well—in terms of what information needed to be communicated and why. I think both sides got very polarized in their positions.

So we are looking at the issue in our OSI follow-up report, and I'm hoping that working group is going to make some progress on that too. But we are watching that one closely, and I agree with you that it's a tough one to tackle.

Hon. Keith Martin: I would be very appreciative of that, because it's a really tough issue to deal with.

The Chair: Thank you very much.

[*Translation*]

You have five minutes, Mr. Perron.

Mr. Gilles-A. Perron (Rivière-des-Mille-Îles, BQ): Thank you, Mr. Chairman.

I'll call you André, because you're no longer in office. I didn't realize that you were a volunteer. I'm learning things!

On a more serious note, I feel deeply for the victims of Gulf War syndrome, especially for the first one I met. His name is François and he is like a son to me. I'm the one who advised François to get in touch with your office. I believe he and others have contacted you.

What, however, have you been able to do for them?

Mr. André Marin: We've conducted several inquiries into operational stress. After the first one, we made a number of recommendations, which were later adopted. The aim was to better prepare our soldiers psychologically to go on missions. We recommended that soldiers undergo a period of decompression following a mission so that anyone suffering from operational stress can be rehabilitated and resume their duties within the Canadian Forces.

A number of our recommendations have been adopted, while others have not. For example, soldiers suffering from operational stress need to be monitored and to receive medical care. But the fact is, many of them don't receive any follow-up or medical care, because clinics...

Mr. Gilles-A. Perron: I'm sorry, but could I clarify one thing?

Mr. André Marin: Yes.

Mr. Gilles-A. Perron: I'm not just talking about soldiers on active duty. I'm talking about those who are no longer in uniform, about persons like Louise who experienced problems. What is being done to help her?

Mr. André Marin: That's why veterans have called for our office's mandate to be expanded to include veterans. Right now, our mandate does not include helping veterans.

Mr. Gilles-A. Perron: Because they are no longer on active duty?

Mr. André Marin: That's correct.

Veterans are the responsibility of the Department of Veterans Affairs and many of them, like Louise and Sean who are here this morning, feel that they are not getting enough support from Veterans Affairs.

Mr. Gilles-A. Perron: I could give you the names of other people.

Still on the subject of veterans, what I'm about to say applies also, in my view, to the Ombudsman's Office, because I've heard it stated on two occasions, including once by a man by the name Luc Renaud, who was having problems but didn't want to contact your office.

I'd like to talk about the Veterans Review and Appeal Board. Many veterans are reluctant to go before the Appeal Board, for the following reasons.

First of all, the judge presiding over the Board's proceedings is paid by the Department of Veterans Affairs. The lawyers hearing the appeal are also on the department's payroll. The plaintiff, who must be represented by a person who is also paid by Veterans Affairs, must plead his case to a judge who is also on the department's payroll. We have here the appearance of a conflict of interest, and this is as serious as an actual conflict of interest. When I think about the whole situation, that is about the lawyers, the judge, and the ombudsman, I think about an old proverb that my father used to quote: "Don't bite the hand that feeds you".

How can these veterans hope to be defended fairly and equitably when the lawyer representing them is paid by the Department of Veterans Affairs, when the judge hearing the case is also on the department's payroll and when both the ombudsman representing them, as well as counsel, are paid by the Department of National Defence?

•(1025)

Mr. André Marin: Mr. Chairman, in the case of the Department of Veterans Affairs, the systemic problem to which the Member alluded would be an interesting one to explore further. I've taken note of his comments and I will discuss this matter with Ms. Finlay. If ever the Ombudsman's mandate is expanded, then this is one topic that the office could examine.

As for whether the comment applies to the Ombudsman's Office, I have to say that the Office's independence is protected by its mandate. For instance, I was appointed to serve during good behaviour. I operate outside the limits of DND and I report to the Minister of National Defence. If the minister wishes to give me instructions, they must be in writing and be made public. Our mandate is worded in such a way as to demonstrate to anyone who might be observing our actions that there is no political interference. Since I report outside the chain of command, I am not beholden to anyone. If we consider the history of the Office and how it has been run for the past seven years, there has been no hesitation on our part to criticize the military, where necessary.

Mr. Gilles-A. Perron: I'm talking about appearances. For that very reason, I think the Ombudsman should report to the House of Commons, for conformity's sake. Right now, the Ombudsman looks more like someone who, in order to receive a paycheque, must toe the line dictated by the Minister of National Defence, or else run the risk of having his contract terminated. That's what people are likely to think.

Mr. André Marin: I can well appreciate what you're saying. When we drafted our White Paper, Mr. Chairman,

[English]

we gave a lot of thought to the issue of the reporting relationship to the minister. As I'm leaving, we could have recommended that the office report to an external body, but the reason I didn't make that recommendation was that we have established an informal reporting relationship with this committee just by our very functioning. We therefore didn't see that it was necessary to formalize it, because when you report to Parliament, you have to report to a committee. When we look at the pros and cons of reporting to a committee, I believe the office can be more effective with the current reporting

relationship, assuming it is strengthened by legislation, and I'll get into that a little bit.

By reporting to the minister, there's one person who's on the hot seat, and that person happens to have a finger on the button. When I tell the Minister of National Defence to pay this soldier his \$3,500 that he was trying to fight for fourteen years, as we did in our last report, and the minister knows I'm coming out with a public report, it's very persuasive to move and implement that. That's what Minister Graham did. He overruled the chain of command's decisions for the last fourteen years. But when you report to a committee....

I'm a great believer in this committee, but this committee does not have the authority to implement the recommendations. It can lend its support to the ombudsman's office, as it has, and it has been very effective in doing so. But you can't say there will be legislation tomorrow or that this soldier will be paid his money. The minister can.

So when you weigh the pros and cons—and there's no doubt that the member has pointed to a very important point, the appearance of independence—I think if the function of the office is strengthened by legislation

[Translation]

legislative provisions can reinforce the fact that the ombudsman is independent, without our having to change the name of the person to whom the ombudsman is accountable. If we play with all of these mandate components, we can reinforce the office's independence without having to redefine the line of authority.

[English]

The Chair: That you, Mr. Perron.

Just on that point, I think there have been at least four defence ministers whom I've been involved with in this committee, whether as chair or not, and I agree. I think you need to report to the person who has the authority to implement your recommendations. If they want to give that authority to this committee, fine, but I don't think it's likely. But from talking with various ministers, I do agree that it has been very helpful and very important that your office is regularly at this committee.

Maybe it should almost be set up as a regular event rather than an open invitation, which you've known it is and which you've taken up. We should almost build it in as a regular thing, with the open invitation to come even more often, because you have all parties represented. As Mr. Marin has noted—and I think we all agree—by and large this committee operates in a pretty non-partisan way when compared to a lot of committees. It can put a lot of heat on in a situation when it's sometimes required to move a file along, although we can't make the final decision. But I agree that unless we were to have more power, the office is best to report to the minister, with lots of attention brought to bear at this committee.

•(1030)

Mr. André Marin: If I may, Mr. Chair, I would like to add that the other thing we thought about is a reporting relationship to the Prime Minister, as they have in Australia. That would provide added insulation so that the chain of command is a little more removed from leaning on the political staff, because then they would be dealing with the Prime Minister's political staff. The Prime Minister, of course, could direct the implementation of recommendations, so that would be an alternative. Although we didn't articulate that in the paper, I'm leaving with the committee the idea of a direct reporting relationship to the Prime Minister. I would throw that out there for the committee members to deliberate on.

The second thing I would suggest, Mr. Chair, is that the committee may want to assert its authority and influence over the selection process for the permanent ombudsman. It may well be that this committee chooses to pass a motion or recommendation that the proposed candidate be vetted by the committee.

The Chair: I think we've actually already done that. We intend to see the proposed candidate.

Mr. André Marin: You're ahead of me then, Mr. Chair.

The Chair: It's a good thought, and we intend to pursue it. I think there is great support in this committee, from all parties, for the Office of the Ombudsman.

I have a couple of questions that I will hold onto, because we have Mrs. Longfield for five minutes.

Hon. Judi Longfield: Thank you.

You recommended a parallel authority to investigate. You already run a pretty lean and mean operation. How many more people would you need on staff? Have you given any thought to additional resources? I appreciate that you feel there would be savings on another line, but how much would have to be transferred to your office?

Mr. André Marin: If all these recommendations are implemented, Mr. Chair, I would think that an increase in staff of maybe 20% to 30% would be required. We're talking pennies, a drop in the bucket, if you're looking at the whole military budget. More importantly, there is the money you would save by cutting back on all the other mechanisms.

Hon. Judi Longfield: I am not suggesting how many or by how much. I was just wondering if you've given it any thought.

Mr. André Marin: Yes, of course.

Hon. Judi Longfield: You have never suggested that you would get rid of the current grievance system, but rather that it needs to be streamlined. No matter what we do, whether we agree with your recommendation to make it a parallel operation or whether it continues to go as it is—and Mr. MacKenzie has indicated that there are some objections—it's going to need to be streamlined. Do you have some specific recommendations?

We have a lot of people who say the system needs to be fixed, but they don't give us any concrete, specific recommendations. If you could give us very specific recommendations on what needs to be done to streamline or fix the grievance system, they would be extremely helpful.

Ms. Barbara Finlay: Quickly, one of the things I could think of is referred to in the white paper. The system itself was supposed to function in a streamlined way down to two levels, whereas it used to be six, seven, or eight before the new reforms were brought in. You have what is called the initial authority level, and you now have the grievance board and the office of grievance administration. But you have these huge offices of people in the background who are analyzing files and giving expert opinions at different levels, and lawyers who are examining files. I think that's where you need to look. Look behind the scenes to see how many times these files are being analyzed by the same individuals.

We're told that what happens is that the ground level commander quite often does not have the authority to take an action to resolve a grievance very quickly. It has to go up to National Defence Headquarters, where the file gets passed on to analysts. We're told they routinely ask for extensions at that level for up to six, seven, or eight months. It's those kinds of things that you need to look at. What's happening with this file in that six, seven, or eight months? Who's it getting passed around to?

We see these grievances at the end of the day. People ask us to examine the process, and we're always shocked that for what seem to be relatively simple, straightforward issues—there are some that are more complicated and that do deserve a thorough examination—there are reams of files, paperwork, analyses, and legal opinions on things that should be very simple to resolve. So I would look behind the scenes at what's happening to these files for six or seven months at the first level, never mind what is being examined for twelve, fifteen, or sixteen months at the grievance board level.

•(1035)

Mr. André Marin: I have two things to add to Ms. Finlay's answer. One is to impose deadlines on everyone in the system, period. There has always been a reluctance to impose deadlines on the Chief of the Defence Staff, for example, because he's the Chief of the Defence Staff. But I think we have to come to terms and say that he may be Chief of the Defence Staff, but he still has to adjudicate within time lines. The chain of command has been very reluctant to impose deadlines on the Chief of the Defence Staff because he is just that, but part of the problem is that there are no deadlines in the system.

The final point I would add to Ms. Finlay's comment is that the grievance system is fraught with conflict of interest. You see that military lawyers who gave advice in the first instance as to why it should be rejected are getting involved at the other end, giving advice to the final echelon in the grievance system. How can you be in a position to give legal advice at the beginning and the end? You're bound to give legal advice that will support what you said initially. So the system lacks the kind of independence that a grievance system should have.

Those are the two points I would add.

The Chair: I'm just going to hitchhike on Mrs. Longfield's point there and say one or two things. As part of our defence review, Ms. Finlay, we certainly could request that you or whoever is in the position at the time come for a consultation. And when you have a chance to further reflect on Mrs. Longfield's question, another thing that might be very helpful for this committee would be a briefing note of specific suggestions, something that repeats what you've said verbally, along with anything else you have in addition to that.

We're going to do a review of the defence policy and the way forward for the forces of this country. It obviously has to speak to the quality of life of the forces, which we've done a special report on, as you know. That speaks directly to your office and to the help that your office is there to provide, so if you could bear that in mind, that would be helpful.

Yes?

Hon. Judi Longfield: I was going to give Mr. Perron whatever time I had left.

The Chair: There wasn't any, but I'll put him on the list after our other colleagues.

I see none here, so I'm going to give Monsieur Perron another shot at it. I'm then going to come to Mr. Bagnell and Mr. Rota, and I think maybe that will be it, although I have a couple myself.

Monsieur Perron.

[*Translation*]

Mr. Gilles-A. Perron: I'll turn the floor over to you, Anthony, for whatever time I have remaining.

Ms. Finlay, is it in fact true that you cannot go back and re-open any of the cases that pre-date the creation of the Ombudsman's Office?

Ms. Barbara Finlay: That is correct.

[*English*]

There is a qualification that the ombudsman can make a recommendation to the minister to investigate those cases. We usually do that.

The reason for that revision was that we wanted to be able to control the use of resources. The office wanted to look forward, make recommendations into the future, and not feel it was required to examine every case that was.... We've had cases from First World War veterans. Some of those cases are quite simply so old and have been around for such a long time that we're very limited in what we can do to help. So the purpose of that revision is to keep the office looking forward.

That said, in certain exceptional cases, especially those that raise systemic issues and problems that are so relevant, we can go back. We do need the minister's approval to do that, but we can go back.

• (1040)

[*Translation*]

Mr. Gilles-A. Perron: I see. We'll now hear from the Bloc Member.

[*English*]

Some hon. members: Oh, oh!

The Chair: [*Inaudible*]...but go ahead, Mr. Rota.

Mr. Anthony Rota (Nipissing—Timiskaming, Lib.): I'll be very quick.

The grievance system is rather complicated. I know I tried to take a few notes and tried to go through it. Do you have some kind of flow chart that you can pass on to us so that we can better see it visually? It would help the committee just to look at the system in order to see where the roadblocks are or where the potential roadblocks are.

The Chair: That would be a good opening page on the briefing note I spoke about.

[*Translation*]

Mr. Anthony Rota: Thank you, Mr. Perron.

[*English*]

Ms. Barbara Finlay: We'll certainly work on that. I would just like to mention that in our upcoming annual report, like every year, we've reported on the grievance system and delays in the types of cases we're seeing. That's coming again this year, and it might provide you with some insight. But I'm going to work on something for you as well.

Mr. Anthony Rota: A flow chart would just allow us to visualize it and relate better to what the written text is saying.

The Chair: Very good.

Mr. Bagnell—and if there aren't any others, I then have a couple of final questions as well.

Hon. Larry Bagnell: I just want to go back to something Mr. MacKenzie was talking about, and that is when a complaint first comes up. I tend to agree that the first step shouldn't be into a bureaucracy, whether it's a complicated grievance system or your bureaucracy. Management should have some way of solving the problem they have created, without the person having to deal with their direct supervisor, who could be causing the problem. Inside the system, there should be a way whereby the management that is causing the problem gets the first crack at fixing it and getting it over with.

I assume a lot of things could be dealt with in a quick way. I don't know if it's by fixing the grievance system, as Mr. MacKenzie said, or if there's one process that could be recommended, whereby the employee gets access to go one level up in order to quickly get a chance to resolve it and is then dumped into your system, as opposed to, say, an overly complicated grievance system. I don't know what your thoughts are on that.

Mr. André Marin: Mr. Chair, when you think of the ombudsman's office, you think of the work we've done on boards of inquiry, mustard gas victims, PTSD, and those kinds of things. But those are the nineteen special reports we produced in the last seven years. What perhaps takes the back seat are the 9,000 informal resolutions.

What the honourable member is referring to now is answered by those cases that we do informally, without fanfare, without attention, without publicity. These are the cases where we go into the system. Just because you come to the ombudsman, that doesn't mean we go out to do a major, massive investigation of the issue. The vast majority of our cases, 99%, are resolved in the chain of command, at the lowest level.

If you're a private who comes to see us and says, "I have a problem with my supervisor because I didn't get paid last week", the first thing we do is call the lowest level in the chain of command and fix the issue. The leaders, the chain of command, are always involved, and that does it in 99% of the cases. The person might say there was a misunderstanding, that the cheque was available.

What we're asking is whether we need a grievance system that will take months and years to address this through a formal mechanism, or whether we allow the ombudsman to take a shot at it to try to reframe or advance the issue at the appropriate level in the chain of command and fix it informally. We're saying the current system is not efficient.

In the last case we did, the member was denied his \$3,500 for over ten years. Had we been allowed a complementary role in that case, had the ombudsman's office existed twelve or fourteen years ago, we could have taken the case immediately and said this didn't make sense and the guy should get his cheque. We could have resolved it informally in a matter of days and weeks, perhaps, instead of fourteen years. That's what we're saying.

The Chair: Is that it, Mr. Bagnell?

Hon. Larry Bagnell: I just have one other thing. It's a comment on going to the top of the pile. I guess it's too bad if everyone else doesn't get equal treatment. Someone can go to the top of the pile by going to either a member of Parliament, the ombudsman, or the minister, but then all the people who should be getting their problems solved through the regular routines are not treated as fairly, in the sense that someone is expedited and has politically gone to the top of the pile. That's too bad, I guess.

• (1045)

Mr. André Marin: Yes, I'm aware of and very sensitive to that, Mr. Chair. That's why we have tried to find out what the systemic issues are, so that when we look at a problem we can benefit a whole bunch of people. That's why we did PTSD. That's why we did the boards of inquiry on the military investigating itself and on the history of botched investigations in twelve years. One widow complained about a soldier getting run over by an armoured personnel carrier in 1992. When we looked at his case, we issued a systemic report, which totalled nearly 600 pages with attachments, on how to fix the broader issue so that the most people benefit. That's what I've tried to do with the direction of the office, to allow the most people to benefit, not just the person whose case is brought to the top of the pile.

Hon. Larry Bagnell: Thank you.

The Chair: Very good.

Mr. Martin.

Hon. Keith Martin: Monsieur Marin, how do we overcome—and I'm assuming you have a sense of this—an institutional reluctance?

You mentioned that at times you've been subjected to push-back by the institution for civilian oversight on military matters. How do we overcome this particular challenge? Is it an education issue? I'm sure we can get to a win-win situation, because we're all here for the same purpose: to serve our men and women in uniform. Is it an educational process through which we can overcome this so that we have a better working relationship and better cooperation at all levels?

Mr. André Marin: It's a very good question, because I think the member is quite correct. We're all supposed to be on the same side on these issues.

I think there are two things that can be done, apart from generally more education for people. One is that the promotional process of the Canadian Forces has to incorporate the support of civilian oversight. It has to be part of the promotional process, in that you don't get promoted unless you support the civilian oversight. I think that would deal very clearly with the issue. To my knowledge, that's not at all part of the promotional process.

I think one of the times when we often see setbacks in cooperation, Mr. Chair, is after a round of promotions, because you'll get a new Chief of the Land Staff who has been seeing things happen from the sidelines. He gets promoted and says he thinks military problems ought to be resolved by the military, as opposed to in collaboration with an ombudsman's office. We need to re-educate these people. So we often find setbacks after rounds of promotion, when you would think that the contrary would happen, that people would go through the promotional process, know that there's an ombudsman's office, and be prepared to work with the ombudsman's office.

The second thing is legislation. I come back to this point that an act of Parliament would send a very clear sign.

[*Translation*]

It would send a message from the legislators to the chain of command to the effect that there will be a legislative measure, namely an Act of Parliament, which will indicate support for the Ombudsman's Office. The role of and the duties associated with this Office would thus be clarified.

[*English*]

Currently, we work with a mandate that says I'm a delegate of the minister. To many within the chain of command that means I'm an extension of the minister's office, and that's the problem. We look like we're a political tool, and we invite objection and obstruction because the vehicle is the wrong one. I therefore think this legislation would send a very clear message of support.

The Chair: Thank you very much.

Go ahead.

Ms. Barbara Finlay: I would just say that I totally agree with that. Mr. Marin talked about how the whole culture and attitude—and we hear this quite often—is that the office is somehow a punishment for what happened during Somalia, and that eventually the system will improve to the point that they'll get things right and they won't need the ombudsman any more, instead of accepting that the ombudsman is here to stay, that it strengthens the chain of command, and that it contributes to the organization in a positive way.

The military works under laws, regulations, and orders. That's what they're used to. If you put the office in legislation, you're going to have an acceptance that it's here to stay. Right now, you have some—and I'm not saying this is characteristic at all—who feel that if they keep fighting it hard enough and long enough, maybe eventually it's going to disappear. Or they think that if they fight it so much, the soldiers will think it doesn't have credibility and they won't come to the office.

So if it's in legislation, there will be a sense that it's here to stay and that they have to accept and work with it.

• (1050)

Hon. Keith Martin: Even though so many other countries have had it for decades? That's interesting.

The Chair: We're the only country that doesn't have it in legislation, right?

Hon. Keith Martin: There are so many others, as was mentioned, like Australia, the U.S. with variations, and Israel. All of them have had a variation of that for a very long time. It's a part of military structures all over the world, so that's interesting.

The Chair: Thank you.

Obviously I've taken some chairman's initiative here to accommodate members' questions without being constrained to these exact little pigeonholes I have. I follow that very rigidly as long as there are questions from all members, but I also want to give members a chance to ask questions.

Let me go one more time before I ask my own. Mine are pretty straightforward.

First of all, let me comment on that. I had a long one-on-one meeting with the new CDS yesterday. It was confidential, but I can tell you one thing that I know wasn't, and that is his absolutely fundamental and foremost commitment to the quality of life of the men and women in the Canadian Forces. As we look at revamping the forces, that has to mean the proper respect for your office, and I'm very sure we will probe that as we go into the defence review. That's why I think it has to be part of our discussions.

That's also why this chart that my colleague Mr. Rota mentioned, the briefing note I mentioned—and they obviously could be one and the same—and maybe even a consultation with your office at the time we get into it may all be part of the work that I'm sure the committee will want to do. We can then look at whether we want to make a recommendation about the legislation and so on.

Just for a couple of factual clarifications, Monsieur Marin, early on in your comments you said there was not enough of a commitment to more oversight. You're talking about civilian

oversight from your office. You've already somewhat answered my question about parliamentary oversight. Maybe you answered it when we talked about regular visits to this committee, but do you have any other thoughts on it?

I know I have a feeling—and I believe it is shared by some colleagues, and maybe many who have served on this committee—that this committee doesn't have enough resources and probably does not exercise enough parliamentary oversight of the Canadian Forces. Do you have any thoughts about that vis-à-vis your specific role?

Mr. André Marin: In our white paper and the draft legislation accompanying the white paper, we don't suggest or make reference to any reporting relationship to the committee, but I think it could be very appropriately put in the legislation that the ombudsman shall appear regularly before SCNDVA, on a bi-yearly basis, a quarterly basis, or whatever the committee would like.

The problem as I see it, Mr. Chair, is that my appearances before this committee have largely been because we have sought to appear before the committee, and the committee has been very receptive and has learned a lot about our office. But another ombudsman could come along and decide to go underground and not share information with the committee, and I think that would be a disservice to the men and women in uniform.

As I indicated in my opening statement, this committee has been instrumental in lending its weight and support to the welfare of soldier issues, has been instrumental in supporting our work. It would be a shame if that were to dissipate or be lost, so I very much encourage involvement by parliamentarians.

The Chair: I agree with that. And I wouldn't like to think so, but I suppose it's possible that you could get a committee of parliamentarians who would be less receptive. But if they're charged to say they will hear from the ombudsman at least this many times, and perhaps even more if needed or wanted, that would be a good move. So I appreciate that.

You talked about confusion in the process and about functions being confused in the military system. Are there not written job descriptions for these people? Do they just simply exist but aren't followed properly? What's the systemic problem there?

Mr. André Marin: Mr. Chair, as statutory and non-statutory reforms were happening to civilian oversight—the grievance board was created, the MPCC was created, we were created, and so on—I think what happened was that a coherent vision for oversight was lacking. It almost looked as though oversight was developed by various committees at NDHQ, and they each made different recommendations that were all put together, but *il manque un fil directeur*. There's no theme. It's not organized. I'm sure it was well intended. I'm not suggesting the intention was to make it disorganized, but you have a patchwork of oversight that just doesn't make sense.

This committee is made up of highly educated members of Parliament who follow military issues, and it's not obvious to you how to access all these places. It's not obvious to me, and I've been in the job for seven years. How do you expect the privates and corporals to figure it out?

The system should be at the service of regular members. That's why we called the paper "Overhauling Oversight". It doesn't need tinkering here and tinkering there. You need to come up with a vision, just like you did with the defence vision. In the defence review that's currently happening, there's a vision fueling that. There has to be an oversight vision. It's not just putting a band-aid here, doing this, tinkering with this and that. And the only way you can bring about this vision is through statute.

•(1055)

The Chair: Thank you very much.

This is my last question. A number of us had the briefing about the proposed revamping of Veterans Affairs. In that briefing, I asked the question, "What about an ombudsman, an ombudsperson, for Veterans Affairs?" The answer was—you'll enjoy this, I'm sure—"We hope to do our job so well that there won't be a need for an ombudsperson." I said that was very nice, but that this hasn't necessarily been my experience with a lot of veterans in my riding as a member of Parliament. Although I think Veterans Affairs does good work, they admit they can do better.

But to at least get to my question—and in a way this ties in with Mr. O'Connor's earlier point—would we be better with two ombudspersons or one, in your view?

Mr. André Marin: I think one would do the job, simply because we're talking about bureaucracies. Two would create two different bureaucracies, but often the problems are interconnected.

If you look at the mustard gas test case that we looked at, there were components for both departments. We were able to do the case, even though we're not supposed to touch Veterans Affairs issues, because we tackled it from an angle of looking at information flow from the military to Veterans Affairs. That was our in for the case.

So all these issues are interconnected, and I think it would be a disservice to have two.

On your point about them doing the work so well that you wouldn't need an ombudsman, that's human nature. People don't like someone looking over their shoulder. But I think what we expect of the members of the Canadian Forces is too important to not have these checks and balances in the system.

The Chair: Thank you very much. That concludes the meeting.

Monsieur Marin, as you depart, I hope we will encounter each other from time to time in other ways. On behalf of this committee and I know all parliamentarians, I want to again thank you very much for—I think the right word is "outstanding"—the outstanding work you have done in your position as ombudsman of the Canadian Forces. We wish you the very best in your new work, which is similar, of course, with another government.

We welcome Barbara Finlay into the position at this time, and we wish you the very best for success in your work in this job.

We thank you both very much for being here.

Mr. André Marin: Thank you, Mr. Chair and all committee members.

If the committee ever finds it suitable to do so, I remain available to the committee. I've always liked volunteer work, and if you seek it, Mr. Chair, I will gladly come back. I'm not very far.

The Chair: Thank you very much.

The committee is adjourned.

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