

## **ANNEX A**

### **STATEMENT OF WORK**

#### **TITLE**

Military Police Complaints Commission of Canada Investigation Services Requirements

#### **BACKGROUND**

##### **Military Police Complaints Commission of Canada (MPCC)**

The Military Police Complaints Commission (MPCC) was established by an Act of Parliament in December of 1999, as part of a significant effort to modernize and strengthen Canada's military justice system. This was executed by an amendment to the *National Defence Act* (NDA), Part IV of which sets out the full mandate of the MPCC and how complaints are to be handled. As stated in Issue Paper No. 8, which accompanied the Bill that created the MPCC, its role is “to provide for greater public accountability by the military police and the chain of command in relation to military police investigations.”

The MPCC is one of 14 distinct organizations in the [Defence Portfolio](#). While it reports to Parliament through the Minister of National Defence (MND), the MPCC is both administratively and legally independent from the Department of National Defence (DND) and the Canadian Armed Forces (CAF). The MPCC is not subject to direction from the MND in respect to its operational mandate.

The MPCC is an independent Federal government institution as defined under Schedule I.1 of the *Financial Administration Act* (FAA). As an independent oversight agency, the MPCC must operate at a distance and with a degree of autonomy from government, including from the DND and the CAF. All members of the MPCC are civilians and are independent of DND and the CAF in fulfilling their responsibilities and accountabilities in accordance with governing legislation, regulations and policies.

#### **Mission**

To promote and ensure the highest standards of conduct of Military Police (MP) in the performance of policing duties and functions, and to discourage interference in any military police investigation.

The MPCC fulfills its mandate and mission by exercising the following responsibilities:

- ✓ Monitoring investigations by the Canadian Forces Provost Marshal (CFPM) of MP conduct complaints;
- ✓ Reviewing the disposition of those complaints at the request of the complainant;
- ✓ Investigating complaints of interference; and
- ✓ Conducting public interest investigations and hearings.

## Vision

To be an organization that exhibits fairness and impartiality, inspires trust and contributes to a climate of confidence in military policing.

## Values

- ✓ Mutual respect (within the organization and externally)
- ✓ Integrity
- ✓ Fairness
- ✓ Dedication
- ✓ Open and Effective Communications
- ✓ Professionalism

## Military Police

The Military Police (MP) provides a variety of operational, law enforcement, investigative and security services at bases and units across Canada and throughout the world, wherever the Canadian Armed Forces serve.

There are currently 2,061 MP members in the Canadian Armed Forces, 1,624 of whom are sworn peace officers. They exercise policing jurisdiction within the Forces, and over all persons on DND property. The remaining 437 MPs are members of the Reserve Force (who are usually not sworn peace officers).

Military Police members form an integral part of the military justice system in much the same way civilian police act within the civil and criminal justice system. They routinely train and work with their civilian counterparts in the provision of police and security services to the CAF and the DND.

Members of the MP are appointed under regulations for the purposes of section 156 of the NDA and, as such, are awarded certain powers in order to fulfill their policing duties and functions.

The *Criminal Code of Canada* recognizes MP members as peace officers. They have the same powers of search, seizure and arrest as civilian police and they can lay charges in civilian criminal courts. MP members posted to the Canadian Forces National Investigation Service additionally can lay charges under the Code of Service Discipline of the NDA (an authority otherwise reserved to the military chain of command).

For additional information about the Military Police, please see the [Canadian Forces Provost Marshal Web site](#).

## Legislative Authority

The legislative mandate of the MPCC is found in [Part IV of the NDA](#), "Complaints about or by Military Police."

The following regulations under the NDA are also relevant to the MPCC's activities: [Complaints about the Conduct of Members of the Military Police Regulations](#), and the [Military Police Professional Code of Conduct](#).

## **PROJECT OBJECTIVE AND REQUIREMENTS**

The MPCC is currently seeking to update its Source List for investigator resources to carry out investigative work related to complaints, on an as and when requested basis.

The investigation services may be for Phase I with an option for Phase II of the investigative process.

### **Phase I work:**

- Review and analyse disclosure, including military police files, interview recordings, audio/video recordings, any MP Group Orders, policies or standard operating procedures (SOPs), and any additional reports or documents;
- Prepare an Investigative Assessment, which will include the following information:
  - A summary of documentary disclosure and audio/video recordings as part of the Investigative Assessment document;
  - A summary of recommendations in support of decisions regarding scope of investigation and identification of subjects, as required;
  - A preliminary witness list and witness questions, as required; and
  - Any other information as required as part of the Investigative Assessment.
- Participate in team meetings as required;
- Complete any other work relating to the respective file, as required by MPCC legal counsel or MPCC General Counsel.

### **The Phase II work:**

The contractor(s) will review the Investigative Assessment and any key documentation and evidentiary material related to the investigation relevant to carrying out interviews and completing the Investigative Assessment Report; assess the facts and issues; carry out the approved investigative steps required to complete the file including preparing interview plans; conducting interviews and preparing interview summaries. Preparation of the Investigation Assessment Report will also be required. Review draft rulings or decisions for factual accuracy, as required.

## **SCOPE OF WORK**

The investigators will be required to review the MPCC Investigation Guidelines manual and agree to carry out their activities in compliance with the established practices before proceeding with the work required in a contract.

Note: The MPCC investigation guidelines will be made available to the qualified contractors following Contract award.

The scope of the work required will be to review all of the aspects of the file, including all disclosure and audio or video recordings, gain an understanding of the state of the file and go through any investigative steps required as established in the Investigation Guidelines, including but not limited to producing a preliminary Investigative Assessment for approval and a final investigation assessment report.

Investigation: An investigation is a systematic process of gathering evidence in order to prove or disprove the validity of a set of allegations made arising out of a complaint. The investigator is required to obtain and evaluate information regarding the circumstances and facts surrounding an allegation or set of allegations in a fair and impartial manner.

The contractor will be expected to adhere to the Principles of Good Internal Investigations:

- Timeliness;
- Objectivity;
- Fairness;
- Good organizational skills;
- Discretion;
- Confidentiality maintained; and
- Sensitive information protected.

## **Public Interest Investigations and Hearings**

At any time when it is in the public interest, the Chairperson may initiate an investigation into a complaint about military police conduct or interference in a military police investigation. If warranted, the Chairperson may decide to hold a public hearing. In exercising this statutory discretion, the Chairperson considers a number of factors including, among others:

- ✓ Does the complaint involve allegations of serious misconduct?
- ✓ Do the issues have the potential to affect confidence in military police or the complaints process?
- ✓ Does the complaint involve or raise questions about the integrity of senior military or Department of National Defence officials, including senior military police?
- ✓ Are the issues involved likely to have a significant impact on military practices and procedures?
- ✓ Has the case attracted substantial public concern?

## **Investigation arising out of a complaint**

Anyone, including individuals not directly affected by the subject matter of the complaint, may make a conduct complaint regarding the conduct of military police in the performance of their policing duties or functions. The Canadian Forces Provost Marshal (CFPM) is responsible for dealing with complaints about military police conduct in the first instance. The MPCC has the statutory mandate to monitor the steps taken by the CFPM in response to complaints, and the authority to intervene if required. Conduct complaints may be investigated in the first instance at the discretion of the Chairperson under the provisions of Public Interest Investigations or Public Interest Hearings, or subsequent to a request for a review by the complainant of the results of a review or investigation carried out by Canadian Forces' Military Police Professional Standards (PS).

Investigation Assessment Reports (IAR): The reports prepared by the investigation team are a narrative that provides all the information required by the Chair or delegated Member to make findings (and recommendations/observations where considered appropriate).

The IAR should be prepared using the template provided in the Guidelines.

The investigator must be prepared to participate in case discussions regarding the IAR when required.

Post Investigation Activities (may comprise, but not limited to):

- Participation in any judicial proceedings that may occur; and in that event,
- Additional senior management briefing, if requested.

## **Interference Complaints**

Members of the military police who conduct or supervise investigations may lodge a complaint about interference in their investigations.

Examples of interference may include:

- ✓ Abuse of authority;
- ✓ Intimidation;
- ✓ Direct intervention by a non-military police member;
- ✓ Encouraging individuals not to cooperate with an investigation;
- ✓ Threatening people who cooperate with a military police investigation; or
- ✓ Leaking information.

## **The Investigative Process for a complaint: Stages of the Investigation may comprise of the following;**

- ✓ Phase I - Investigative Assessment and preliminary analysis of investigation (Receipt of investigation file, review and summarize file, prepare chronologies and preliminary analysis of allegations and subjects); and
- ✓ Phase II - Conducting the investigation (including preparing an Investigation Assessment Report outlining all relevant evidence).

Stages of the investigation:

The Contractor shall carry out a complete review of the entire file including all disclosure, in accordance with any of the requirements listed below.

Phase I – Investigative Assessment and preliminary analysis of investigation (may comprise, but not limited to):

The Investigator must ensure that the allegation or set of allegations received are clear enough to prepare the Investigative Assessment (IA) using the MPCC templates found in the MPCC Investigation Guidelines Manual. While preparing the Investigative Assessment, the investigator must consider the legislative authority.

The Investigative Assessment:

- Read all documentation and materials provided by the MPCC;
- Must be prepared as outlined in the Investigator Guidelines. The IA will include the scope of the investigation and the key issues and area of investigation as well as chronologies of the file and the disclosure.
- Meet or discuss with the MPCC lawyer responsible for the file.
- The Investigative Assessment will include a preliminary list of the persons that may be interviewed in relation to the complaint and the data or documentary evidence needed. Authorizations that may be required from various sources to

obtain evidence should be identified, as this evidence may be under the control of other organizations.

- The IA, once approved, will also include an analysis of the resources needed to conduct the investigation, both human and financial. This analysis should take into account the skill sets needed, such as subject-matter experts in the field, linguistic and travel requirements, the MPCC resources to be consulted (e.g. legal, HR, finance if required) and the estimated costs associated with the investigation.

Phase II - Conducting the investigation (as informally and expeditiously as possible)

The investigation is to be conducted within the parameters of the approved Investigative Assessment. Investigators should keep assigned counsel informed of the progress of the investigation and discuss new issues identified or additional persons to be interviewed, as the addition or removal of any interviewees must be approved by the MPCC (Chairperson or delegated Member). At any time, if it appears that the status of a witness has changed (from subject to witness or vice versa) assigned counsel must be informed immediately so that the MPCC can decide on the information to be provided to the witness/subject.

Where the investigation uncovers new issues not anticipated in the development of the IA, an addendum to the IA should be submitted.

Ideally, the investigation should be completed according to the timelines established in the Investigator Guidelines. If more time is needed and/or if more documents or policy/legal research are required, the investigator shall discuss with the assigned counsel.

On-site investigation: interviews should be recorded with the informed consent of the interviewee. The consent should be on the recording along with the date, time, place and an accounting of all persons present in the room and their role in the investigation.

Telephone and videoconference interviews will be used, and they should be recorded with the consent of the individual.

Investigation Assessment Reports (IAR): The reports are a narrative prepared by the investigation team that provides all the information required by the Chair or delegated Member to make findings (and recommendations where considered appropriate).

The IAR should be prepared using the template provided in the Guidelines.

The investigator must be prepared to participate in case discussions regarding the IAR when required.

Post Investigation Activities (may comprise, but not limited to):

- Participation in any judicial proceedings that may occur as a result of these activities (judicial review) and/or;
- Additional senior management briefing, if requested.

## **MPCC Investigator Profile – Qualifications**

### **Education**

- An acceptable combination of education training and/or experience OR any bachelor's degree from a recognized university.

### **Languages (Bilingual OR Unilingual)**

- Must be fluent in French or English; bilingualism will be considered an asset. Language requirement will vary from contract to contract.
- Must be able to read, interview and prepare reports in French, English or both official languages.

Note: Most of the work products will be required in the language of the complaint and as identified by the Project Authority.

### **Experience**

- Retired or in the process of retiring police officer (must be retired before first contract is issued) with a minimum of 15 years policing experience and;
- 10 years experience leading and conducting police investigations in files and;
- Experience in writing and preparing comprehensive and detailed investigative reports with recommendations for decision and;  
Experience in conducting investigations or prosecutions for a police oversight agency and / or professional standards or internal affairs unit of a police service is an asset.

OR

- Legal counsel with significant experience (at least 10 years) in criminal litigation as either defence or prosecution or as investigative counsel for a police oversight body and;
- Significant, in-depth experience conducting either police investigations or investigations for a police oversight agency or working as counsel in criminal litigation in complex files and;
- Experience in writing and preparing comprehensive and detailed investigative reports with recommendations for decision and;
- Experience in conducting investigations or prosecutions for a police oversight agency and / or professional standards or internal affairs unit of a police service is an asset.

### **Knowledge, abilities and skills**

- Ability to manage investigations, including the interpretation of various statutes;
- Ability to plan, analyze complex issues, and make recommendations;
- Ability to work under pressure and conduct an investigation within relatively tight time frames;
- Ability to communicate effectively orally;
- Ability to communicate effectively in writing and to write meaningful, factual and comprehensive summary and final investigation assessment reports based on a detailed assessment of the information gathered through interviews conducted and evidence examined;
- Ability and willingness to travel if required;

- Effective interpersonal skills;
- Good judgment;
- Dependability and integrity;
- Adaptability;
- Initiative;
- Flexible schedule (full time and or part-time as needed); and
- Strategic, self-starter, team player, objective and perceptive.

## **COMMUNICATION**

The contractor is responsible to communicate regularly with the MPCC. Communication is defined as all reasonable efforts to inform MPCC staff of plans, decisions, proposed approaches, implementation, and results of work, to ensure that the project is progressing well and in accordance with expectations.

Communication may include: phone calls, electronic mail, meetings via videoconference or in person (if required). In addition, the Contractor is to notify MPCC staff immediately of any issues, problems, or areas of concern in relation to any work completed under the contracts, as they arise.

### **i) Ad-hoc Investigation Activities**

Ad-hoc investigation support services may be comprised of any of the services outlined in the Statement of Work described in this document.

## **DELIVERABLES**

### Phase I

- Document review and file analysis;
- Preparation of summaries of evidence;
- Preparation of chronologies;
- Drafting of Investigative Assessment;
- Once Investigative Assessment is approved, drafting of proposed budget for investigative services (to allow Project Authority to assess financial commitment required).

### Phase II

- Maintain evidence and protect confidentiality of records;
- Prepare detailed interview questions/plans for approval by assigned counsel;
- Conduct investigation work as outlined in the approved Investigative Assessment;
- Prepare detailed interview and witness summaries;
- Provide regular progress/status reports;
- Draft Investigation Assessment Report (as per template/format provided by MPCC);
- Factual verifications of any decision or rulings;
- Return disclosure materials to MPCC.



### Possible Post Investigation Activities

- Participation in any judicial or tribunal proceedings (if required);
- Additional senior management briefing, if requested.
- Ad hoc Investigation Support Services:
  - ✓ May contain but not be limited to any of the individual deliverable elements identified above.

#### Notes:

- ✓ All deliverables are to be legible, properly indexed, spell-checked and cross-referenced in the approved format;
- ✓ All documentation must be compatible with Microsoft Office products;
- ✓ Acceptance of the final deliverable(s) will be made by assigned counsel;
- ✓ Investigation work must be conducted in accordance with the legislative framework identified in the Statement of Work.

## **MANAGEMENT OF THE PROJECT**

The Investigator will report as instructed by MPCC when a contract is awarded.

Assigned counsel will accept draft IAs and IARs related to the investigation in electronic copy.

All proposed amendments must include a detailed explanation as to why the amendment is required, as well as a detailed work plan and detailed revised budget (if affected). Any changes to the work plan will be subject to MPCC approval.

Additional review and enquiry may be approved as required for matters that come to the MPCC's attention during the course of the Initiation Phase; and

Any additional work will be considered as a separate tasking. Any changes in scope or level of effort have to be approved by the MPCC Project Authority or their designate in writing in advance.

Government provided support:

At the outset of the contract, the MPCC Project Authority will provide relevant background information, documents and access to data and some investigative equipment (laptops, secure briefcases, voice recorders). Every attempt will be made throughout the course of the contract to provide additional information requested by the Investigator, if deemed relevant to the project. In addition, the MPCC Project Authority will be available to respond to inquiries from the Investigator. The Investigator will be provided with access to the MPCC Project Authority and staff as required and to necessary documents. MPCC internal Resources and Subject Matter Experts will be available as required.

- ✓ The MPCC Project Authority will be responsible for providing, as required, guidance to the Investigator, and accepting and approving Investigator deliverables on behalf of MPCC.

Additionally, as required for the completion of the work, MPCC will:

- ✓ Review and provide comments on draft reports and all submitted deliverables in a timely manner;
- ✓ Provide contact information and facilitate access to persons as required, for the completion of the assigned work;
- ✓ Arrange for the Investigator to have access to MPCC premises to provide services when necessary; and
- ✓ Provide the Investigator with other as-required assistance to enable the Investigator to proceed on schedule with the completion of assigned deliverables.

## **WORK LOCATION**

The Contractor will work primarily from their place of business; however, space on-site is available for occasional use. The Contractor will, regardless of work location, be expected to attend meetings (in person, by phone or videoconference as required), consult and review documentation with the MPCC staff as required. The MPCC Project Authority will work with the Investigator to arrange suitable facilities when necessary.

Meetings with MPCC staff may be required on site at the MPCC office in Ottawa. MPCC will not reimburse any travel-related expenses incurred to attend such meetings for suppliers where their place of business is within a 50 km radius from the MPCC office. All travel outside the investigator's normal place of business could be reimbursed in accordance with the NJC Travel Directive and the MPCC's internal guidelines.

Note: All travel expenses must be approved by the MPCC Project Authority in writing prior to them being incurred by the investigator. Failure to do so may result in the investigator not being reimbursed the expenses claimed.

All expenses must be supported by original receipts, where required under Treasury Board guidelines.

## **LANGUAGE OF WORK**

The Contractors must have the ability to read, conduct interviews and write a report in French or English or both, as per the requirement of the respective file.

## **CONFLICT OF INTEREST**

The Contractor must declare that they have no interest in the business of any third party that would cause a conflict of interest or be seen to cause a conflict of interest in carrying out the work. Should such an interest be acquired during the life of the source list/contract, the Contractor shall declare it immediately in writing to the MPCC Project Authority. The Contractor engaged shall conduct themselves in such a manner that there is not and will not be any conflict arising from interest of other clients of the Contractor. This includes potential appearance of conflict of interest when no actual conflict of interest exists.

## **CONFIDENTIAL INFORMATION**

Any information of a character confidential to the affairs of His Majesty to which the successful Contractor becomes privy as a result of the work to be performed, shall be treated as confidential, during as well as after, the performance of the said services.

## **TIMING**

The period is expected to be from contract award and be in effect until such time as the MPCC deems it to no longer meet with the on-going MPCC operational requirements. From time to time the MPCC may require qualified suppliers to update certain terms and conditions.

**Note: Qualifying in the pool of investigators has no financial value. Only a contract awarded subsequent to a request for a proposal would determine the amount of the respective contract.**

## **SECURITY REQUIREMENTS**

The successful supplier must meet the security requirements specified in the security guide below.

### **Security Guide**

The successful supplier must apply the following policy when collating and/or gathering information and writing reports on behalf of MPCC:

Policy on Government Security; and Directive on Management of Departmental Security:

Annex D: IT Security Requirements and Controls

The successful supplier must apply the following standards:

Management of Information Technology Security (MITS);

### **Physical Security**

#### **Security Controls**

The successful supplier must:

Safeguard all electronic information on an MPCC issued laptop with Public Key Infrastructure (PKI) access on the server as per MPCC internal procedures for information up to and including Protected B. For any documents classified as Secret, access will only be provided on site at MPCC offices and shall not be stored on the MPCC server.

Store the laptop (Protected B) in a container appropriate for the information (i.e. a locked cabinet) as per MPCC security policy.

## Entity Identification

By Applying to this RQ process, you acknowledge and understand that it won't be possible to change your entity throughout the entire process, including while qualified and active in the MPCC's Investigator pool. You will have to keep using the entity that you applied with on the RQ. The only instance that an entity could be changed is if the MPCC opens a new RQ process, where you can then reapply under the new entity.

## Audit

**The successful supplier will agree to submit, upon request, to a security audit by officials and/or representatives of the MPCC.**

The consequences of being found in violation of the policy, directive, security controls and standards will be based on section 7.1 of the *Directive on the Departmental Security Management*, which reads:

7.1 The deputy head is responsible for investigating and responding to issues of non-compliance with this directive. The deputy head is also responsible for ensuring appropriate remedial actions are taken to address these issues.

No contract will be awarded unless these requirements are met.

## SOURCE REFERENCES

### Department of National Defence and Canadian Forces

- [Complaints about or by Military Police \(Part IV of the \*National Defence Act\*\)](#)
- [Military Police and Canadian Forces Provost Marshal](#)
- [Military Police Professional Code of Conduct](#)
- [National Defence](#)