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MILITARY LAW AND OPERATIONS Chris Madsen Release No. 2, October 2024

What's New in This Update:

This release contains updates to Chapter 1 (Historical Antecedents), Chapter 2 (Military Justice), Chapter 3 (Civilian Oversight), Chapter 4 (Legal Issues in the Canadian Forces), and Chapter 5 (Domestic versus International Operations). Additionally, Appendix A (Legislation), Appendix B (Courts Martial Lists), Appendix C (Digests), and Appendix E (Military Sentencing Digests) have been updated.

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Highlights:

- In April 2024, the Prime Minister and Minister of National Defence released a defence policy update titled *Our North, Strong and Free*, which gives renewed emphasis to defence and security in Canada's Arctic and promises increased investments in the Canadian Armed Forces on equipment and personnel: see § 5:9.
- Commander Catherine Deschênes has been appointed Chief Military Judge by order-in-council, as of March 21, 2024: see § 2:12.
- Kelly Walsh to be chair of the Military Grievances External Review Committee, effective May 2, 2024: see § 3:10.
- Stefanie Beck became Deputy Minister of National Defence, effective June 3, 2024: see § 3:5.
- On May 20, 2024, the Minister of National Defence released a third status report from external monitor Jocelyne Therrien, tracking progress on implementing recommendations arising from Justice Louise Arbour's Independent External Comprehensive Review: see § 4:17.
- In June 2024, President Joe Biden granted pardons to service members and veterans in the United States convicted of sodomy under the Uniform Code of Military Justice: see § 4:23.
- General Jennie Carignan became Chief of the Defence Staff at an official hand-over ceremony on July 18, 2024. She is the first female to hold the top position in the Canadian military: see § 3:4.
- The Standing Committee on Veterans Affairs released a report titled *Invisible No More. The Experiences of Canadian Women Veterans*, which documents discrimination and treatment that women have faced serving in the Canadian military: see § 4:16.

A new § 2:7.10 *R. v. Edwards* has been added.

Courts martial lists for 2022 and 2023 have been updated and courts martial for 2024 added.

Of the new case law discussed in this release, the following are of note:

1. In *R. v. Edwards*, the Supreme Court of Canada dismissed a grouping of appeals from the Court Martial Appeal Court that involved the status, independence, and impartiality of military judges in respect to constitutionality under s. 11(d) of the *Charter of Rights and Freedoms*: see §§ 2:7.10 and 2:12.
2. In *Frenette v. Attorney General (Canada)*, a class action settlement has been approved for \$150 million giving

compensation ranging between \$5,000 and \$35,000 for individual class members claiming racial discrimination and harassment in the Canadian Armed Forces and \$5 million for representing class legal counsel, to be paid separately: see § 4:29.

3. In *Thomas v. Attorney General (Canada)*, the federal court certified a class action to proceed involving alleged discrimination against past and present Canadian military members diagnosed with a mental health disorder: see § 4:29.