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MILITARY LAW AND OPERATIONS

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What's New in This Update:

- The Auditor General of Canada released a report titled Administration of Justice in the Canadian Armed Forces, critical of undue delays in courts martial, problems with record-keeping and oversight by the Office of the Judge Advocate General, and lack of timely and effective reviews of the military justice system. A number of recommendations were made and the Department of National Defence has responded: see 2:20.30, 3:20.40
- The Minister of National Defence Harjit Sajjan sponsored Bill C-77 "An Act to amend the National Defence Act and to make related and consequential amendments to other Acts" for first reading in Parliament on May 10, 2018 giving greater focus on victims and their rights within the military justice system: see 1:60.50

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- Review by an independent special prosecutor found a reasonable prospect of conviction exists in charges against the Chief Military Judge, prosecution is in the public interest, and recommended five additional charges be laid, to go to court martial. The Department of National Defence made an announcement to that effect on June 11, 2018: see 2:20.30(a)
- Courts martial lists for 2016, 2017 and 2018 have been updated.
- Of the new case law discussed in this release, the following are of note:
 1. *Miller v. R.* delved into the acknowledgement and financial compensation owed cadets killed or injured during the unintended explosion of a grenade at a Quebec cadet camp in 1974. The Department of National Defence tried to suppress the incident for many decades and argued that statutory time limits preclude survivors from taking legal action against the government. The Federal Court agreed with this argument. A token compensation package has been promised instead, with the attention given by media coverage: see 4:50.10
 2. *R. v. Gillespie* involved an officer drawing his service pistol on subordinates under his command, in a threatening and intimidating fashion. The officer was recently returned from operational deployment abroad and under some stress. The action set a bad leadership example and the offender was transferred to base garrison duties, effectively removed from direct supervision or responsibility over troops: see 4:50.10(a)
 3. *R. v. Ryan* had a naval officer plead guilty to criminal harassment against an ex-girlfriend. Prior sexual history, and disclosure of relevant details, was an issue addressed by a military judge: see 4:60.20
 4. *R. v. Ayanle Hassan Ali* concluded that an individual of the Muslim faith who attacked and slashed military members with a knife at a Canadian Forces recruiting centre in Toronto was not criminally responsible for his actions, by virtue of his mental state. The wording of existing legislation focused on terrorism and terrorist acts does not adequately address such “lone-wolf” attacks: see: 6:40.50
- Case sentencing digests for courts martial have been added in a new appendix.