

# SPECIAL REPORT

to the Minister of National Defence  
April 2008



Mary McFadyen

## Reserved Care

An Investigation into the Treatment of Injured Reservists



Ombudsman

National Defence  
and Canadian Forces



Défense nationale  
et Forces canadiennes

Canada

## **Reserved Care**

An Investigation into the Treatment  
of Injured Reservists

**April 2008**

**Investigative Team:**

**David Clarke, Team Leader**  
**Gaston Boisvert, Investigator**  
**Brian Finn, Investigator**  
**Erin McDonald, Investigator**  
**Sandra Scott, Investigator**  
**Gary Furrie, Special Advisor**

February 29, 2008

The Honourable Peter G. MacKay, P.C., Q.C., M.P.  
Minister of National Defence  
Major-General George R. Pearkes Building  
13<sup>th</sup> Floor, North Tower  
101 Colonel By Drive  
Ottawa, ON K1A 0K2

Dear Minister MacKay:

Please find enclosed six copies of our special report entitled *Reserved Care: An Investigation into the Treatment of Injured Reservists*. The investigation was launched in 2006 following complaints from Canadian Forces Reserve members who indicated that different standards of health care were applied to those injured while serving Canada. The investigation marks the Office's first systemic investigation involving Canada's Reserve Force.

At the conclusion of our investigation, given the complexity of the matters raised and the nature of the recommendations, we issued an Interim Report and provided it to appropriate levels of authority within the Department of National Defence and Canadian Forces in order to obtain its response to the findings and recommendations. Taking into account the responses received, this Final Report was prepared. It is submitted to you, the Minister of National Defence, as a report, based on paragraph 38(1)(b) of the Ministerial Directives for the Ombudsman's Office.

Pursuant to paragraph 38(2)(b) of the Ministerial Directives, please be advised that we intend to publish the report on the expiration of 28 days from this date.

We look forward to receiving your response to our recommendations.

Yours truly,



Mary McFadyen  
Interim Ombudsman

Enclosures



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# Executive Summary

## *Introduction*

This is the first systemic investigation undertaken by the Office of the Ombudsman involving Canada's Reserve Force. While Reservists are being called on more and more to fill the same roles as members of the Regular Force, when Reservists need medical attention, they often find that they are not treated the same way as Regular Force members.

## *Investigation*

The investigation revealed numerous problems for Reservists who injure themselves in the course of their duty to Canada and subsequently require health care. These are not new problems. They have existed for decades despite some well-meaning attempts by the Canadian Forces to get control of the real, day-to-day issues plaguing Reservists and health care providers. With the Chief of the Defence Staff's Transformation process and the desire to more closely align the Reserve Force and the Regular Force, the existing problems related to health care became more apparent.

The Canadian Forces have faced a high operational tempo in recent years, and more and more, Reserve Force members are being called upon to assist the Canadian Forces in delivering on its mandate. This includes providing support to the Regular Force during crises and natural disasters in Canada, as well as critical augmentation to increasingly dangerous and demanding international missions, such as the current operation in Afghanistan. Indeed, approximately 20 percent of the current Canadian Forces contingent personnel in Afghanistan are Reservists.

The requirement will not reduce any time soon. Whether for operational deployments in Afghanistan, the coming 2010 Winter Olympics, or climate-induced emergencies, the Primary Reserve will play an increasingly important role in the overall effectiveness of the Canadian Forces.

Clearly, the role of Reservists has evolved dramatically over the last several years. Unfortunately, policy reform has not kept pace with the evolving role of this essential part of the Canadian Forces. In return for their commitment to train and serve their country, Reservists rightfully expect to receive the best care possible when they are injured or become ill while on duty or away from their home while performing military service.

For the purpose of this investigation, we received extensive input from almost 400 people, the majority of whom were Reservists. We examined existing policies, procedures, regulations and websites. We spoke extensively to



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Canadian Forces health care providers and heard their concerns. The senior leadership in the Canadian Forces freely offered their input. We received full cooperation from everyone we contacted. As a result, we are confident that the information reported herein accurately reflects the state of affairs as they existed at the end of 2007.

10 This investigation identified four major issues:

11 **A. Provision of health care to Reservists:** Health care regulations and policies pertaining to the entitlements of Reservists who receive health care from the Canadian Forces are confusing. As a result, there are huge inequities in the interpretation of when health care will be provided, which is frustrating for medical officials and Reservists. In this report, we make four recommendations to correct these deficiencies.

12 **B. Consistency of standards:** Standards are either different for, or applied differently to, Reserve Force personnel than their Regular Force counterparts in the areas of periodic health assessments, immunizations, the treatment of injuries sustained while maintaining physical fitness, and medical record handling and storage. This report includes five recommendations to correct these deficiencies.

13 **C. Benefits for injured Reservists:** Compensation under the Accidental Dismemberment Insurance Plan for some Reservists is only 40 percent of the compensation for identical injuries suffered by other Reservists and by all Regular Force personnel. Furthermore, Reservists who are members of the Supplementary Reserve and are serving temporarily rather than permanently with the Primary Reserve are not entitled to benefits under the Accidental Dismemberment Insurance Plan or long-term disability benefits under the Service Income Security Insurance Plan. There are two recommendations contained in this report that address these very serious shortcomings.

14 **D. Reserve administration:** The Canadian Forces is not able to process medical releases for Reservists in a timely manner. This results in financial disadvantages for the Reservist. This report includes one recommendation to resolve the matter of medical releases.

15 ***Recommendations***

16 **Provision of Health Care**

17 In the matter of the provision of health care to Reservists, our report summarizes a number of troublesome issues, including:

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- 18           • The current policies and regulations relating to the entitlement of  
              medical care for Reservists are confusing;
- 19           • The practice of providing different levels of medical care to Class B  
              Reservists depending on the length of their contract is widespread; and
- 20           • The policies, their interpretation and decisions concerning Reservists’  
              medical care are often inaccessible to Canadian Forces members who  
              are not part of the care giving network, and are difficult to access for  
              members who are part of the care giving network.

21           A strategy to effectively deal with these issues must be developed; therefore,

22           **We recommend that:**

- 23           • **The Canadian Forces develop a new framework governing the  
              entitlement to, and provision of, medical and dental care for the  
              various categories of Reservists;**
- 24           • **The new framework be drafted in clear and user-friendly terms  
              so that it lends itself to fair and consistent interpretation and  
              application;**
- 25           • **The new framework (and all subsequent amendments and  
              clarifications thereto) be widely circulated, and remain  
              accessible to, and easily retrievable for, all concerned; and**
- 26           • **This framework be completed within 12 months following the  
              publication of this report.**

27           In order to achieve fair and appropriate treatment for Reservists, the  
              entitlements for health care when the injury or illness is attributable to military  
              service must also be explained. To achieve this,

28           **We recommend that the framework for medical and dental care  
              recognize the obligation for the Canadian Forces to provide Reservists  
              (whether by Canadian Forces caregivers or by external health care  
              providers) with the comprehensive health care they require as a result  
              of illness or injury attributable to military service.**

29           Unfairness can also occur when part-time Reservists serve temporarily away  
              from their home location and can access neither their family care provider (due  
              to distance), nor military care because of their class of service or because the  
              need for care was not attributable to military service. Referral to a provincial  
              health system brings numerous complications, including: transportation  
              difficulties; finding an available doctor or dentist (which is not always

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possible); loss of training or duty time; payment issues including, at times, “out-of-province” status; unavailability of health records; and continuity of care challenges. To mitigate these issues,

30       **We recommend that the framework for medical and dental care identify the Canadian Force’s responsibility to provide medical and dental care to all Reservists who need it while serving away from their civilian health care providers.**

31       A reformed framework that includes the policies we recommend may not result in every issue being resolved. However, the clarification of principles and values will allow for a uniform approach and easier resolution of difficult cases and files. In this regard, serious consideration should be given to including a principle in the framework that gives the benefit of the doubt to the Reservist when a decision concerning the member’s entitlement to medical and dental care is taken. Therefore,

32       **We recommend that the new framework for medical and dental care contain a general direction to decision makers that it should be interpreted and applied in a fair and generous manner and that, in cases where issues of entitlement are unclear, the decision shall be resolved in favour of the member.**

33       **Lack of Consistent Standards**

34       The lack of consistent standards was repeatedly brought to our attention. Although the majority of Reservists serve part time, more of them than ever are volunteering for full-time duty on Canadian Forces missions and deployments. Indeed, Reservists are explicitly expected to meet and maintain the same standards of fitness for employment and deployment as Regular Force members. This is as it should be. If standards are legitimately set, they must apply to everyone. Double standards – one for the Regular Force and another for the Reserve Force – are not fair to anyone.

35       The need for one set of standards works both ways. It is fair for the Canadian Forces to expect Reserve Force personnel to meet and maintain the same standards of fitness for employment and deployment as Regular Force members. It is also fair for Reserve Force personnel to be provided with essentially the same level of support in achieving those standards as that received by Regular Force members. Our report focused on four areas of primary operational/occupational health issues:

- 36           1. Periodic health examinations or assessments,
- 37           2. Immunizations,

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38           3. Physical fitness requirements, and

39           4. Health records.

40           The following five recommendations were developed to address these concerns:

41           **We recommend that, within 12 months following the publication of this report, the standards for periodic health assessments be applied equally for Primary Reserve and Regular Force personnel.**

42           **We recommend that, within 12 months following the publication of this report, the Canadian Forces:**

43           

- **Publish immunization/vaccination requirements that apply to all military personnel (Regular and Primary Reserve Force) engaged in domestic operations and training; and**

44           

- **Put in place a mechanism for the provision of these immunizations/vaccinations at public expense to both Primary Reserve and Regular Force members.**

45           **We recommend that, within 12 months following the publication of this report, the Canadian Forces develop a framework to ensure that Reservists receive fair compensation for lost income and proper medical care when they suffer injuries as a result of engaging in training activities to attain or maintain Canadian Forces physical standards.**

46           **We recommend that the Canadian Forces take immediate action to maintain and safeguard all Reserve Force health records to the same standard as the Regular Force.**

47           **We recommend that health records follow the member during component transfers and re-enrollments.**

48           **Benefits for Injured Reservists**

49           The third major section of the investigation and report addresses two issues. The first is an inequity in dismemberment insurance benefits as a result of part-time Reservists receiving a reduced insurance payout for loss. The second issue concerns the ineligibility of Supplementary Reservists serving in the Primary Reserve to have access to disability and other benefits. In each instance there are two standards, which breaches principles of fundamental fairness. Therefore,

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50        **We recommend that the Accidental Dismemberment Insurance Plan be changed, retroactive to February 13, 2003, to ensure that all Canadian Forces members receive the same compensation for the same injury.**

51        **We recommend that the Canadian Forces take immediate action to ensure that all Supplementary Reservists who are attach posted to the Primary Reserve receive the same benefits as their counterparts.**

52        **Reserve Administration**

53        The focus of this investigation was the treatment of injured Reservists; however, investigators also learned that there are significant concerns and issues with respect to the administrative burden imposed on Reserve units. Interviews with Commanding Officers, adjutants and unit chief clerks, and with the personnel branch staff at formation headquarters, revealed that Reserve units (particularly Army Reserve Units) are not adequately resourced to conduct the administration they are mandated to perform, nor is their staff adequately trained. Concerns about Reserve administration are not new and have been the focus of previous reports by other agencies.

54        While these administrative difficulties affect all aspects of the military experience of part-time Reservists, they are highlighted in the context of this investigation because the problem results in inadequate support to injured Reservists and their families, particularly with respect to administering medical releases. The problems include:

- 55            • The Reservist is unable to access or can only obtain late access to case managers because of delays in medical release authorization;
- 56            • Delays in processing medical releases result in members not receiving their Reserve Force Retirement Gratuity in a reasonable amount of time; and
- 57            • The ability of injured Reservists to access Service Income Security Insurance Program benefits is frequently compromised.

58        To address these issues,

59        **We recommend that the Canadian Forces take immediate action to enable prompt medical releases for all Reserve Force personnel.**

60        This was the first systemic investigation undertaken by the Office of the Ombudsman that specifically focused on Canada's Reserve Force. We have made 12 recommendations which, when implemented, will ensure that all members of Canada's Reserve Force are treated fairly.

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61 Our Office looks forward to the response of the Minister of National Defence and the Chief of the Defence Staff to the recommendations in this report.



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## **Treatment of Injured Reservists**

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### ***Introduction***

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### **Overview of the Investigation**

65

The Office of the Ombudsman has conducted a systemic investigation into the treatment of Canadian Forces Reservists who require health care. This is the first systemic investigation undertaken by the Office of the Ombudsman involving Canada's Reserve Force.

66

### **Rationale**

67

The traditional role of the Reserves is to be a strategic Canadian Forces resource, the basis for mobilization, with some elements assigned specific roles and missions. However, today's Reserves also represent an increasingly important operational capability. It is anticipated that this dual role, strategic and operational, will continue for the foreseeable future.

68

In this regard, the Chief of the Defence Staff has identified his intent to more closely integrate the Regular and Reserve components and to better align the Primary Reserve to serve domestic, continental and international force employment requirements. Specifically, he stated:

69

*Regular, Reserve and civilian personnel will be more closely integrated into virtually every CF structure in order to ensure the best utilization of appropriate skills and experience at every level. In simple terms, what the individual can do is more important than where he or she came from or what uniform, if any, they wear.<sup>1</sup>*

70

The Canadian Forces have faced a high operational tempo in recent years and, more and more, Reserve Force members are being called upon to assist the Canadian Forces in delivering on its mandate. This includes providing support to the Regular Force during crises and natural disasters in Canada, as well as critical augmentation to increasingly dangerous and demanding international missions, such as the current operation in Afghanistan. Indeed, approximately 20 percent of the current Canadian Forces contingent personnel in Afghanistan are Reservists.

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<sup>1</sup> The sixth transformation principle (an integrated Regular, Reserve and civilian Canadian Forces) is presented in Annex A of *CDS Planning Guidance – Future of CF Reserves* (June 12, 2007). This principle was reiterated in CANFORGEN 159/07 on October 19, 2007.



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71 The requirement will not reduce any time soon. Whether for operational deployments in Afghanistan, the coming 2010 Winter Olympics, or climate-induced emergencies, the Primary Reserve will play an increasingly important role in the overall effectiveness of the Canadian Forces.

72 When the Office launched its first systemic investigation involving Canada's Reserve Force, the previous Ombudsman, Mr. Yves Côté, stated, "*The Canadian Forces cannot have one standard for all military members when it comes to risking your life but different standards of care for those that are injured serving their country.*"

73 There was concern that Reservists on operational deployments were not getting the post-deployment care to which they were entitled. However, in the course of this investigation, it quickly became apparent that the greatest challenge facing Reservists rests elsewhere.

74 In all facets of their training and employment, Reservists and Regular Force members are physically exposed to risk of injuries that may jeopardize their future. In those circumstances, when something does happen, the Regular Force soldier is guaranteed immediate and continuous medical care. This is not always the case for the Reservist, even when facing the same conditions as his or her Regular Force counterpart.

75 The Reservists' eligibility for care is governed by the terms of the contract under which they are serving. Reservists on short-term contracts are provided with acute care until they can be transferred to their provincial health care system. It is these Reservists, injured in the course of their duties, who face a host of problems, including access to timely, adequate and ongoing health care from the Canadian Forces.

76 **Investigative Process**

77 A team of four investigators was assigned to the investigation.

78 The investigation was conducted by means of interviews and the review and analysis of related documentation and policy.

79 In order to reach those who could contribute, an outreach plan was developed and implemented to publicize this investigation. One of our goals was to invite Reservists to share their experiences, be they positive or negative, with our investigators with respect to how they were treated within the Canadian Forces health care system for injuries they had sustained. Our Office contacted senior authorities in National Defence Headquarters who subsequently advised subordinate formations and units about the investigation and, indeed, encouraged full support and participation.

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80 Members of the investigation team interviewed 225 Department of National  
Defence personnel across Canada. Another 164 provided input mainly through  
e-mails and telephone calls. The majority of these 389 people were Reservists.

81 Investigators also studied policies, procedures, regulations and related  
websites.

82 The investigation was conducted in five phases:

- 83 1. Initial assessment – early summer 2006
- 84 2. Investigation planning – late summer 2006
- 85 3. Data/evidence gathering – autumn and winter 2006-2007
- 86 4. Review and analysis of data – winter 2006-2007 and spring 2007
- 87 5. Report drafting, consultation and preparation – spring and summer  
2007

88 We are confident that the information reported herein accurately reflects the  
state of affairs, including policies and procedures, as they existed at the end of  
2007.

89 Our investigators received full cooperation and support by all participants,  
particularly from health care providers, during this investigation.

90 We also reviewed Chapter 4 of the October 2007 Auditor General report that  
dealt with military health care.



91

## **Background**

### ***Who is a Reservist?***

93 Service with the Canadian Forces is voluntary; thus all Reservists are  
volunteers who wish to contribute to the defence and security of Canada, to  
train to qualify for their selected professions, and subsequently, to prepare for  
domestic or international operations.

94 There are numerous categories and classifications of Reserves. At its highest  
level, the Reserves consist of four sub-components:

- 95 • The Primary Reserve – This component is the one with which  
Canadians are most familiar. These are the Reserve soldiers, sailors and  
airmen and airwomen, both officers and non-commissioned members,  
who work in armouries and Reserve units or with Regular Force units  
across Canada and overseas.
- 96 • The Supplementary Reserve – This component consists primarily of  
former Regular Force or Primary Reserve members who volunteer to  
help their country in times of crisis or emergencies. When not actually  
employed, they are unpaid, do not receive any benefits, nor are they  
required to undertake training.
- 97 • The Canadian Rangers – The Canadian Rangers provide a military  
presence in sparsely settled northern, coastal and isolated areas of  
Canada
- 98 • The Cadet Instructor Cadre – The Cadet Instructor Cadre members are  
essentially youth leaders whose primary responsibilities include the  
training and administration of cadets. Cadet Instructors receive minimal  
military training.

99 The scope of the investigation was limited to Primary and Supplementary  
Reservists.

### **The Primary Reserve**

101 Members of the Primary Reserve may be ordered to train for such periods as  
prescribed in regulations, and may be ordered to perform continuous full-time  
duty other than training, at such times and in such manner as prescribed by  
regulations made by the Governor-in-Council. The Governor-in-Council has,  
by regulation, prescribed that in an emergency, such members, units and other  
elements of the Reserve Force as are considered necessary may be called out

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by the Minister of National Defence to perform military duties other than training, for example, for domestic emergencies.

102 Members of the Primary Reserve cannot be ordered to deploy outside Canada. They must volunteer to serve on international operations or training.

103 The Primary Reserve is commanded by the Chief of the Defence Staff through command headquarters and, in some cases, through intermediate formation headquarters, in the same manner as the Regular Force.

104 **Types of Service**

105 There are time limits on service that Reservists can be ordered to perform; however, they may also volunteer for longer commitments. This allows Reservists to fill full-time positions. The types of Reserve service are defined in *Queen's Regulations and Orders* (QR&O) Chapter 9 – Reserve Service. In this regard:

106 • A member of the Reserve Force is on Class “C” Reserve Service when the member is on voluntary full-time service related to deployments and subject to the same obligations as Regular Force members. For example, Reservists serving in Afghanistan, or training for deployment there, are on Class C Reserve Service. They receive the same pay as Regular Force members.

107 • A member of the Reserve Force is on Class “B” Reserve Service when the member is on voluntary full-time service and:

108 1. Serves in a temporary position conducting training for Reservists or cadets;

109 2. Proceeds on a designated training attachment or training course;  
or

110 3. Is on duties of an approved temporary nature, when it is not practical to employ members of the Regular Force on those duties.

111 • A member of the Reserve Force is on Class “A” Reserve Service when the member is performing training or duty in circumstances other than those prescribed for Class B or Class C service. The majority of these Reservists work part-time and undertake training on certain weeknights and some weekends. Members on Class A and B service receive 85 percent of the pay of Regular Force and Class C members.

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112 ***Canadian Forces Health Support***

113 **Today's Health Care System**

114 The Canadian Forces Health Services is the designated health care provider for Canada's military personnel, responsible for the delivery of medical and dental services to over 85,000 Regular Force and entitled Reserve Force personnel, nationally and internationally. The Auditor General noted in Chapter 4 (Military Health Care – National Defence) of her October 2007 report, that there were over 3,000 health care practitioners (Regular Force, Reserve Force, Public Service and third-party contractors) who provided health care to Canadian Forces members in 2006-2007.

115 The Surgeon General is responsible to the Chief of Military Personnel who in turn reports directly to the Chief of the Defence Staff. Since spring 2007, the Surgeon General is also the Director General Health Services and commands the Canadian Forces Health Services Group.

116 The Canadian Forces Health Services aims to ensure that Canadian Forces members receive a standard of health services comparable to that which Canadians receive under provincial health care plans.

117 Published under the authority of the Chief of Military Personnel, a Canadian Forces document entitled *Spectrum of Care*<sup>2</sup> provides guidelines to the applicable senior medical or dental authority that makes the final decision as to whether or not a health care service will actually be provided, approved and/or funded. It describes the health care benefits and services (medical and dental) that are available and publicly funded for members of the Canadian Forces and other eligible persons. It also provides Canadian Forces members with a range of medical services that are more comprehensive than the publicly-funded provincial systems, while also providing other services such as over-the-counter medicines and therapy services.<sup>3</sup>

118 Where medical or dental treatments and services cannot be provided by in-garrison facilities, the Canadian Forces purchases them from the civilian health care sector. For example, as noted in the Auditor General report, Chapter 4: Military Health Care – National Defence: “*because oncology is not a military medical specialty or part of the primary care services, any member who requires such treatment would be referred to an oncologist by the member's*

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<sup>2</sup> The *Spectrum of Care* document is available online at:

[http://hr.ottawa-hull.mil.ca/health/services/engraph/spectrum\\_of\\_care\\_home\\_e.asp](http://hr.ottawa-hull.mil.ca/health/services/engraph/spectrum_of_care_home_e.asp).

<sup>3</sup> Chief of Review Services report *Review of CF Medical Services*, 7055-42-2 (CRS), October 1999.

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*Canadian Forces physician and become a patient in the civilian health care system at departmental expense.”*

119 **Legal Foundations of Health Care Provided to Canadian Forces Members**

120 In Canada, the provincial and territorial governments have the responsibility to deliver health care services to their residents.

121 However, despite health care being mainly the responsibility of the provincial/territorial governments, the federal government does support and contribute to the health care of Canadians in two ways:

- 122 • By providing funds to the provinces in support of provincial health care plans, and
- 123 • By providing health care services directly to certain groups of persons.

124 The *Canada Health Act* (R.S.C., 1985, c. C-6) sets out how the federal government contributes funds to provincial health care plans, and ensures that those eligible under those provincial plans to receive health care services have reasonable access to those services. The Act specifically excludes Canadian Forces members from its definition of “insured person” under provincial health regimes. In its definition of “insured person” the *Canada Health Act* states:

125 *“insured person” means, in relation to a province, a resident of the province other than*

*(a) a member of the Canadian Forces...*

126 Although this definition would seem to include all members of the Canadian Forces, in practice, only members of the Regular Force are completely restricted from provincial health insurance. Members of the Reserve Force, on the other hand, can and do access medical services paid for by the provincial health insurance.

127 This exclusion exists because members of the Canadian Forces are one of the groups who receive health care services directly from the federal government. This direct provision of health care to military personnel significantly predates the *Canada Health Act*, and stems from the federal government’s responsibility under *The Constitution Act, 1867* (R.S.C. 1985, App. II, No. 5) for “*militia, military and naval service, and defence.*”

128 The federal legislation that discharges this constitutional responsibility and that governs the Canadian Forces is the *National Defence Act* (R.S.C. 1985, c. N-5). Under this Act, regulations have been made outlining the specifics of health care entitlements for members of the Canadian Forces.

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129 The specifics of medical care entitlements for Canadian Forces members are defined in QR&O Chapter 34 – Medical Services. Chapter 34.07(4) provides that “*subject to paragraphs (5) to (8), medical care shall be provided at public expense to a member of: (a) the Regular Force; (b) the Special Force; (c) the Reserve Force...*” [emphasis added]. These provisions will be discussed later in the report as part of the analysis of the effectiveness of policies.

130 QR&O Chapter 35 – Dental Services provides the basis for dental care entitlement for Canadian Forces members. Chapter 35.04(2) provides that a “*member of the Reserve Force on active service, Class ‘B’ Reserve Service for a period in excess of six months or Class ‘C’ Service is eligible for comprehensive dental treatment*” and 35.04(3) provides that a “*member of the Reserve Force is entitled to restricted dental treatment where the member is on Class ‘B’ Reserve Service for a period not in excess of six months*” [emphasis added].

131 QR&O Chapter 35 – Dental Services also establishes entitlements for care for injuries to the teeth that are different than those for routine dental care. All Reservists, irrespective of class of service, are entitled to treatment of a dental injury that is attributable to the performance of duty.

### 132 **Historical Perspective Concerning Medical Support for Reservists**

133 One of the factors that most significantly influences the quality of life of Canadian Forces’ Reservists is timely access to medical care. This is not a new concern; it has been the subject of two Canadian Forces Surgeon General directives,<sup>4</sup> as well as the subject of Canadian Forces’ quality of life surveys and reports since 1997.

134 In 1997, the Acting Chief of the Defence Staff directed a project with the aim of determining the Department and Canadian Forces’ level of success or failure in providing Canadian Forces members and their families adequate medical and administrative care post-injury. The *Care of Injured Personnel and their Families Review* reported that, “*the main area of concern [for Reservists] is in the area of medical treatment. It is not the quality of treatment that is in question, but the ability to actually receive medical care.*”

135 In January 1999, the Chief of the Defence Staff directed the Chief Review Services to undertake a review of the Canadian Forces Medical Service to address issues and concerns that had been brought to senior management’s attention, notably by the 1998 report *Moving Forward – A Strategic Plan for*

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<sup>4</sup> *Medical Care Entitlement Class B Reserve Service*, Surgeon General message 066, December 1991; and *Provision of Medical Care – Reserve Force*, Surgeon General letter 1243-6 (D Med Svcs), April 1997.



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*Quality of Life Improvements in the Canadian Forces*, tabled by the Standing Committee on National Defence and Veterans Affairs. The scope of the review was, however, “*restricted to in-garrison medical care delivered to Regular Force CF members and did not address medical matters relating to the Reserve Force.*”<sup>5</sup>

136 In January 2000, the Chief of the Defence Staff stated in a Medical Services Update backgrounder that “*the issue of health care entitlements for Reservists is extremely complex and is one which will be subjected to a thorough review as a priority by the Project Management Office before the plan is fully implemented.*” In the years that followed, however, no review of Reservist health care entitlements was undertaken.

137 In the interim, Reservists continued to sustain injuries. The Directorate of Casualty Support Administration,<sup>6</sup> since its inception in 1999, has received thousands of form CF 98, *Report of Injuries and Exposure to Toxic Materials or Substances* from Reservists. In recent years, reported injuries from Reservists have averaged 1,300 per year.

### 138 ***Identified Issues***

139 Previous investigation reports published by this Office were the result of specific complaints. This investigation, by contrast, was meant to examine a widely acknowledged area of concern in order to determine the nature of the main problems that existed and their source, and to recommend appropriate corrective action. Interviews were conducted with a number of stakeholders, including several Reservists who had experienced challenges with the bureaucracy, and with members of medical, human resource, casualty assistance and senior administrative staff.

140 The four major issues that were identified in this examination are as follows:

141 **A. The health care provided to Reservists** and, more specifically, the policy confusion within the Canadian Forces about health care entitlements and the inadequacy of care provided to Reservists on Class A and Class B service.

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<sup>5</sup> Chief Review Services report *Review of CF Medical Services*, 7055-42-2 (CRS), October 1999.

<sup>6</sup> Directorate of Casualty Support Administration is the organization responsible to the Chief of Military Personnel “to develop policies to care for injured members and their families, and provide client services in partnership with *Veterans Affairs Canada* to injured members, veterans and their families” (Assistant Chief of Military Personnel PowerPoint presentation, Chief of Military Personnel orientation, September 13-14, 2006).

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- 142     **B. The consistency of standards** and, more specifically, periodic health assessments for Reservists, immunizations for Reservists, the treatment of injuries sustained while maintaining physical fitness, and medical record handling and storage.
- 143     **C. Benefits for injured Reservists** and, more specifically, compensation under the Accidental Dismemberment Insurance Plan, and the inequitable treatment of Supplementary Reservists.
- 144     **D. Weaknesses in Reserve administration** and, more specifically, the Canadian Forces' inability to medically release Reservists in a timely manner.
- 145     The remainder of this report will discuss these four issues in detail.



146 **Provision of Health Care to Reservists**

147 *“No one is really 100 percent sure who gets what. Nobody really  
knows, including me and I run the system...”<sup>7</sup>*

148 ***Confusion about Health Care Entitlements***

149 Literally, everywhere our investigators turned, they found that significant confusion exists throughout the Canadian Forces community regarding medical care entitlements for Reservists serving in Canada. (In contrast, health care for Reservists serving outside Canada was, generally, not an issue.) Questions about what level of medical care should be afforded to Reservists, and under what circumstances, are plaguing individual Reservists, health care providers and the various chains of command. Each of these groups told us that policies are obscure, vague and dated. Not only are there conflicting and contradictory policies, there are also numerous and varying interpretations of the current regulations, directives and practices, which only compound the problem.

150 In the absence of clear, Canadian Forces-wide policies and guidance, local decisions are made and local directives have been developed and implemented. Some senior military medical authorities have encouraged health care providers to liberally interpret the existing policies and to give the benefit of the doubt when treating Reservists. Some medical units have taken this to heart and provide extensive care to Reservists, while others adhere strictly to the published guidelines and, as a result, take a narrow approach.

151 This is unacceptable. The conditions of military service give rise to a set of reciprocal expectations between the profession and Canadian society. Canadian Forces members – Regular and Reserve Force – willingly accept the statutory authority of the chain of command to compel lawful duty, including accepting the risks to health and life. In return, Canada has recognized it has obligations vis-à-vis Canadian Forces members, including the obligation to ensure that they have access to an appropriate level of medical and dental services when they are injured or become ill as a result of their military service.

152 ***Need for an Organized Regulatory Framework***

153 **Queen’s Regulations and Orders – Medical Care**

154 As previously indicated, QR&O Chapter 34 – Medical Services describes entitlements of members of the Canadian Forces to medical care based on

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<sup>7</sup> Interview with Director General Health Services on January 31, 2007.

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classes of service and circumstances of injury. Annex A of this report reproduces the portion of QR&O Chapter 34 that refers to medical care for Reservists.

155 Numerous Canadian Forces health care providers advised Ombudsman investigators that these QR&O provisions are obscure, complex and confusing. As a result, they said that it is extremely difficult to consistently apply the provisions. The result is that the care being provided to Reservists by Canadian Forces' health care providers varies, even for similar injuries, from full and continuing treatment to, in some cases, no treatment whatsoever.

156 It should be noted at this time that, in general terms, members of the Reserve Force on Class B service for longer than 180 days are treated the same as Regular Force members and members on Class C service. This is an issue that will be discussed in the next section of the report.

157 By contrast, there is no consistency for part-time Reservists on Class A service or Class B service for a short duration (180 days or less). At some times and in some places, personnel receive all aspects of medical care through the military health system, including follow-up care such as physiotherapy, transportation to medical appointments and pay for their time. Other times or other places, personnel may receive initial acute care for the injury, and are then referred to the provincial system. They may or may not receive physiotherapy and costs to cover transportation and pay. Sometimes injured Reserve Force personnel received no initial medical care at all from the Canadian Forces.

158 This lack of consistency has existed for some time. A former Chief of Health Services/Surgeon General told an investigator that she found it necessary during her tenure to circulate a policy clarifying the interpretation of QR&O 34.07, primarily with the aim of improving continuity of care for Reservists. Another former Surgeon General also indicated that a more liberal interpretation of entitlement to care in accordance with QR&O 34.07 was required, and directed that personnel on Class B service were entitled to comprehensive medical care at public expense while so employed.

159 In summary, the confusion about medical entitlements for Reservists is widespread and the issues are very complex. QR&O Chapter 34 – Medical Services describes entitlements based on classes of service and circumstances of injury; however, as indicated above, it is drafted in a manner that is obscure and not the least bit user-friendly.

160 **Queen's Regulations and Orders – Dental Care**

161 QR&O Chapter 35 – Dental Services describes entitlements of members of the Canadian Forces to dental care based on classes of service and circumstances

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of injury. Annex B of this report reproduces the portion of QR&O Chapter 35 that refers to dental care for Reservists.

162 Unlike the situation for entitlement to medical care, the entitlements of Reserve members to dental care provided by the Canadian Forces are reasonably clear:

- 163 • Those serving on Class B service for a period of more than six months, or on Class C service are entitled to receive comprehensive dental treatment;
- 164 • Those serving on Class B service of six months or less are entitled to restricted dental treatment;
- 165 • Those serving on Class A service away from their home unit are entitled to restricted dental treatment; and
- 166 • Those serving on Class A service at their home unit are not entitled to dental treatment.

167 It is important to note that most members of the Primary Reserve are entitled to participate in the Reserve Dental Care Plan,<sup>8</sup> one component of the Public Service Dental Care Plan. The plan for Reservists is voluntary and entirely paid for by the Government of Canada. Most Reservists and their administrative staff were knowledgeable about these dental benefits.

### 168 **Distinctions in Class B Service**

169 One of the factors contributing to the confusion surrounding entitlements for Reservists is the Canadian Forces Health Services practice of linking health care entitlement to type and duration of contract. Reservists serving on a Class B contract of 180 days or less get the same entitlement to health care as those on Class A service, while those serving on longer Class B contracts get the same entitlement to health care as those on Class C service (and the Regular Force).

170 While this division of entitlements based on Reserve terms of service *is* clearly specified for dental benefits (as noted above), Ombudsman investigators could find no evidence of a similarly high-level policy authorization for such a division for medical treatment entitlements.

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<sup>8</sup> Full information, including eligibility for coverage and entitlements, is available online at: [http://www.forces.gc.ca/dgcb/dpsp/engraph/rdcp\\_manual\\_e.asp?sidesection=4&sidecat=17#sec1-3](http://www.forces.gc.ca/dgcb/dpsp/engraph/rdcp_manual_e.asp?sidesection=4&sidecat=17#sec1-3).

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- 171 Ombudsman investigators examined the *National Defence Act*, numerous policies and other primary documents, and interviewed Canadian Forces personnel to determine the origin of the Class B split of service (i.e. more than 180 days or 180 days or less). We could not find any Canadian Forces policy that would lead us to the origins of the practice of splitting Class B service for determining entitlements.
- 172 Many Canadian Forces health care providers cited QR&O section 34.07 as the definitive reference used to provide or deny medical care to Class B Reservists based on the type and duration of their contract. As noted earlier, QR&O 34.07 (reproduced in Annex A) is neither clear nor concise. That being said, there is still no mention of a division in Class B Reserve Service for medical entitlements.
- 173 We did, however, find numerous secondary references that use the distinction within Class B service to determine who may access the Canadian Forces health care system. These references included the Canadian Forces Health Services website<sup>9</sup> (policy, direction and guidance area), the *Spectrum of Care* document, the *Member Health Information Guide*,<sup>10</sup> the *National Defence and Veterans Affairs Canada Guide – Death & Disability Programs and Services 2006*, Land Force Area Directives, as well as numerous internal documents and correspondence.
- 174 Investigators could not find a legal basis for the distinction in Class B Reserve Service based on the length of the contract. Nor was anyone they interviewed able to explain the legal basis for the distinction. In fact, investigators were made aware of a discussion about whether the QR&O provided for health care for all Class B reservists, regardless of the length of their contracts.
- 175 Despite the fact that the QR&O does not divide Class B service by duration of contract, the Canadian Forces medical care system continues to systematically differentiate between Class B types of service. Secondary documents have been written, and decisions continue to be made based on a generally held but, in our opinion, erroneous interpretation of a poorly worded QR&O.
- 176 **Policy Terminology**
- 177 Our review of various policies and regulations revealed another problem that compounds the confusion regarding entitlement of Reserve personnel to Canadian Forces provided health care.
- 178 QR&O 34.07 paragraphs (6) and (7) use terms such as:

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<sup>9</sup> [http://www.dnd.ca/health/engraph/home\\_e.asp](http://www.dnd.ca/health/engraph/home_e.asp) .

<sup>10</sup> The *Member Health Information Guide* is available online at:  
[http://www.dnd.ca/health/services/engraph/health\\_info\\_home\\_e.asp](http://www.dnd.ca/health/services/engraph/health_info_home_e.asp) .

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179           • “attributable to the performance of duty;”

180           • “period of duty;” and

181           • “on duty.”

182           While there is nothing inherently wrong with any of these terms, the meaning they are intended to convey becomes very confusing as they are incorporated into subordinate documents and policies concerning the eligibility of Reservists to health care.

183           Investigators found that these subordinate documents and policies used a confusing array of terms such as:

184           • “deemed to be on duty;”

185           • “on duty;”

186           • “attributable to the performance of duty;”

187           • “period of duty;”

188           • “duty status;”

189           • “related to duty;”

190           • “on active service;”

191           • “on military duty;” and

192           • “period of service.”

193           Many of these terms may be intended to mean the same thing, but the use of different terminology suggests to the reader that there is a subtlety involved that must be observed. This indiscriminate use of different terminology leads to confusion for those trying to apply the policies and regulations, and so results in inconsistencies in application across the Canadian Forces. The investigators consulted both the English and French versions of these publications, and noted that both versions suffered from this confusion in terminology.

194           What was particularly troubling to some of the people interviewed was the use of the term “period of duty” in the QR&O to determine when medical care can be provided, without defining the term. Several Reservists questioned whether signing the register for pay purposes equated to being “on duty.” As just one



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example, investigators were told of a case where a Class A Reservist injured himself one evening while on duty at his unit, which did not have access to on-duty medical personnel. He presented himself to Canadian Forces medical authorities the next morning, but he was deemed to be off duty and ineligible for care.

195 Although this situation was resolved with the intervention of his Commanding Officer, it illustrates a certain absurdity of the present system. The current policies can be interpreted to mean that, for some Reserve personnel, there is an entitlement to Canadian Forces medical care only at a time and place where no medical care is available, and, conversely, there is no entitlement to care at a time and place where such care is available.

196 **Policy Circulation and Application**

197 Given the high level of confusion around the entitlements of Reserve personnel to medical care provided by the Canadian Forces, there are many documents that are circulated to explain, interpret or apply the high-level policies in general, or in response to specific circumstances. Unfortunately, the tendency of senior medical authorities to use e-mails as a means of disseminating health care policy, guidance and decisions ultimately restricts accessibility to information, and makes it difficult to recover the information when needed.

198 For example, in November 2004 approval was granted to provide health care to members on Class B service while they are on a mandated break between periods of service. However, this information was sent by e-mail to health care providers only. The information was not formally provided in a way that would reach Reserve administrators and members on Class B contracts.

199 Once issues involving entitlement to medical care are brought to the attention of the Canadian Forces Health Services, they are often dealt with on a case-by-case basis. We were told by numerous health care providers that decisions to provide medical care to Reservists are made through verbal directions, local initiatives, local relationships, e-mails, “hallway consultations,” teleconferences, application of “best guesses,” corporate memory, judgment calls, and the intervention of Commanding Officers.

200 Not only does this informal and ad hoc kind of decision making require a disproportionate amount of time and energy, it also results in inconsistent interpretation of entitlements and provision of care, and creates confusion. That this process even exists demonstrates that the overall regulatory framework for Reserve health care entitlements needs urgent upgrading.

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201     **Policy Knowledge**

202     If it is difficult for the medical professionals – those who know at least where to find the appropriate regulations and directives as they apply to provision of medical care – to consistently interpret these directions, how much more difficult is it for the non-specialist to figure things out?

203     Ombudsman investigators encountered many stakeholders – Reservists, Commanding Officers, Reserve administration personnel – who reported difficulty obtaining or locating accurate information about Reservists’ entitlement to medical care. Some of these stakeholders will access medical services while others will make decisions about eligibility for services.

204     Many of these stakeholders were diligent in their search for clarity. They reported consulting their chain of command, local health care providers or the Directorate of Casualty Support Administration for information. One innovative Reserve unit commander even asked Ombudsman investigators, who were visiting his unit to conduct interviews as part of this investigation, to brief his unit members on entitlements.

205     **Concluding Remarks and Recommendation**

206             *“Streamline it all, for crying out loud.”<sup>11</sup>*

207     In summary:

- 208             • The current policies relating to the entitlement of medical care for Reservists are confusing, as is the language used in both primary and subordinate regulations and policies;
- 209             • The practice of providing different levels of medical care to Class B Reservists depending on the length of their contract is widespread, but not based on primary regulations; and
- 210             • The circulation of policy and decisions concerning Reservists’ medical care is often done in a way that is invisible and inaccessible for stakeholders who are not part of the care giving network, and is difficult to access for those who are part of the care giving network.

211     The consequence of these deficiencies is that decisions about which Reservists are eligible for treatment are taken on a strictly ad hoc basis, and often in ways that are completely at variance with sound public policy and good governance.

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<sup>11</sup> Comment made by a Commanding Officer of a Reserve medical unit.

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This leads to inconsistent access to care, and tremendous confusion and frustration among Reservists.

212 Numerous witnesses – Regular Force and Reservist, health care providers and patients – beseeched Ombudsman investigators to recommend a policy of medical care entitlement for Reservists that is simple, clear and easy to apply. A former Commanding Officer of a Reserve unit asked investigators, “*Why is it not indicated somewhere, in layman’s terms, what Reservists are entitled to?*”

213 As previously indicated, the Chief of the Defence Staff in 2000 stated that a review of health care entitlements for Reservists would be undertaken as a priority, and yet this remains to be done. It is time that leadership resolved this issue.

214 A regulatory framework, supported by clear secondary instruments, that is clear and comprehensive is essential if the Canadian Forces is to ensure that Reservists do not slip through the cracks when they require care. Primary policy and secondary regulations must use consistent and clear language, and must be circulated in a way that reaches *all* stakeholders, and are subsequently easy to find and consult. These same requirements apply to any clarifications that may be required, and they, too, must be widely disseminated and must remain easy to retrieve at a later date.

215 Given the seriousness of the problems, the effect on morale and quality of life, and the need to treat Reserve personnel fairly, it is imperative that this be done quickly. Therefore,

216 **We recommend that:**

- 217 • **The Canadian Forces develop a new framework governing the entitlement to, and provision of, medical and dental care for the various categories of Reservists;**
- 218 • **The new framework be drafted in clear and user-friendly terms so that it lends itself to fair and consistent interpretation and application;**
- 219 • **The new framework (and all subsequent amendments and clarifications thereto) be widely circulated, and remain accessible to, and easily retrievable for, all concerned; and**
- 220 • **This framework be completed within 12 months following the publication of this report.**

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221 ***Inadequacy of Care***

222 **Background**

223 In this section, we examine specific issues relating to whether the health care provided to Reservists is sufficient and adequate.

224 Military service is an inherently dangerous way of life. The nature of training and deployments is changing, field exercises are more robust, and personnel must be fit. With that comes more injuries and more requirements to access health care in a larger way.

225 In return for their commitment to train and serve their country, Reservists rightfully expect to receive the best care possible when they are injured or become ill while on duty or away from their home while performing military service.

226 In a survey conducted in 2000,<sup>12</sup> 14 percent of Reservists (one in seven) reported that there was a time in the year preceding the survey when they felt that they had needed health care for which the Canadian Forces was responsible but did not receive it. This was followed up by a similar survey in 2004,<sup>13</sup> where 15 percent of Canadian Forces Reservists reported that sometime in the past 12 months they believed that they needed health care for which they felt that the Canadian Forces was responsible but they did not receive it. Of that 15 percent, nearly half were on Class B service at the time. There has not been another survey in the past three years.

227 **Limited Access to Health Care**

228 Why might such a large (and consistent) percentage of Reservists perceive a gap between what they feel they have a right to expect and what they actually receive? There are essentially two reasons. The first has already been discussed – the confusion surrounding their entitlement to access the military health care system. The second relates to the duration of access. Once it has been determined that a Reservist is eligible for treatment at a military clinic, he or she is given the same treatment as their Regular Force counterparts *until their period of duty finishes*.

229 In those instances where the injury is attributable to the performance of duty, entitlement to medical care is generally limited for Class A and Class B Reservists to the termination of their period of duty.

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<sup>12</sup> Canadian Forces Health and Lifestyle Information Survey 2000 – Reserve Force Report prepared by Decima Research Inc., July 2000.

<sup>13</sup> Canadian Forces Health and Lifestyle Information Survey 2004 – Reserve Force Report Directorate of Force Health Protection, Canadian Forces Health Services Group, 2004.

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- 230 For the Class A Reservist, the period of duty ends late in the evening or at the end of the weekend training period, a matter of a few hours or a few days at most. For the Class B Reservist, the period of duty may last from a few weeks to a year or more.
- 231 The provision of medical treatment by the Canadian Forces may continue beyond the period of duty for members on Class A or Class B service. However, this entitlement to extended care is subject to physician consideration and senior authority approval. With numerous clinics across Canada, interpretation and application of the provisions of QR&O varies, again resulting in inconsistent and therefore inequitable treatment of Reservists.
- 232 In contrast, Class C Reservists who incur an injury or illness while serving in a Special Duty Area, on a Special Duty Operation or during pre-deployment training, whether attributable to military service or not, may be retained on Class C service for up to two years or more until care is completed or the members are medically released and care is turned over to Veterans Affairs Canada.
- 233 This difference in the approach to duration of care is unfair to those who may be denied extended care.
- 234 There is support for this viewpoint within the Canadian Forces. Ombudsman investigators discussed this with a former Director General Land Reserves, who stated:
- 235 *If someone is on part-time service and we do something to that soldier in his part-time service, which damages him or her, we should be looking after them exactly the same way as we look after somebody on full-time service.*
- 236 There is also the issue of the need for health care for Class A or B Reservists where the illness or injury is not attributable to the performance of duty, but where the Reservists are on military service, training or working away from their units' home location, and so cannot access their family doctor or dentist for treatment. To cite two examples:
- 237
- A Commanding Officer of a Reserve unit in the Maritimes told Ombudsman investigators that one of his soldiers, while training away from his unit on Class B service of 180 days or less, was denied dental treatment at the training base. The soldier was required to seek immediate treatment from a civilian dentist in a neighbouring town.

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238       • A part-time soldier from Alberta was training in Ontario when he developed a respiratory infection. The base clinic denied him treatment because he was on a Class B contract of 180 days or less of service and referred him to a civilian clinic.

239       Investigators were advised of many other similar examples. Although none of these cases involved life-threatening situations, they all dealt with Reservists who, as part of their military duties, were away from home but in close proximity to military health care.

240       Our Office finds this way of treating Reservists to be unfair and wrong. Reservists on military service away from their home location and who need medical treatment, even if the condition requiring treatment is not attributable to duty, are unfairly treated if they are left on their own and forced to find their own medical support.

241       It is important to note that there are other reasons to find this approach unacceptable. For example, there can be significant financial implications and lost training time when members are referred off base for care.

242       **Dental Care for Operational Injuries**

243       As noted above, the situation with regard to dental treatment for Reservists, and health care in general for Reservists on Class C contracts or Class B contracts of more than 180 days, is usually straightforward: these Reservists are normally provided with the same access to care as Regular Force members. In the case of dental care, this entitlement is for “comprehensive dental treatment,” which is defined as treatment necessary and available “*to maintain a reasonable degree of masticatory efficiency and freedom from pain*” (QR&O Chapter 35.01). The entitlement to care for dental **injuries** for all Reservists is described in QR&O 35.04, paragraph 3(b): “*A member of the Reserve Force...is entitled, where the member suffers any injury to the teeth attributable to the performance of duty, to the treatment that is necessary to restore a state of dental fitness comparable to that which existed prior to the injury, if such injury is not attributable to the member’s own misconduct or imprudence.*”

244       For follow-up treatment, the requirement that the dental injury be attributable to the performance of duty applies, even if the injury was sustained in an area of operations. However, the follow-up treatment of medical (non-dental) injuries sustained in areas of operation is not contingent on it being attributable to the performance of duty.

245       Investigators learned of a Reserve officer who sustained a dental injury in a vehicle incident in Afghanistan. As he was a Class C Reservist at the time, he

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was entitled to comprehensive dental treatment. However, the care he required was not available in Afghanistan or for the duration of his Class C contract at his place of duty in Canada. His Class C contract expired, and he could not access dental care because he had difficulty proving that the injury was attributable to the performance of duty.

246 This situation demonstrates an anomaly in the policies related to medical and dental care in and after an overseas deployment. For example, a Reservist injured in Afghanistan, whether the injury is attributable to duty or whether it occurred during a period of off duty time, is entitled to and receives medical treatment in theatre and on return to Canada until the condition is fixed or he or she is released medically and care transitions to Veterans Affairs Canada. However, a Reservist who is injured in Afghanistan and requires dental treatment for the injury will receive it in theatre, if it is available, but is entitled to receive follow-up care in Canada from the Canadian Forces only if the Reservist is still entitled to “comprehensive dental treatment” or the injury is attributable to the performance of duty.

247 The senior dental officer involved in the adjudication of this Reservist’s matter wrote:

248 *Comprehensive dental treatment, as defined in the QR&O, is qualified as dental treatment that is both ‘necessary’ and ‘available’. Even though the treatment may have been necessary, the fact that it was not available means that there is no strict entitlement to that treatment.*

249 It should be noted that, in a case such as this, a Class B Reservist on a contract greater than 180 days, or a Class C Reservist, is not covered under the Reserve Dental Care Plan, since these personnel are deemed to be subject to the same care as Regular Force personnel. When they revert to Reserve service that is covered under the Reserve Dental Care Plan, and the problem is not a dental injury attributable to the performance of duty, there are certain deductibles and limits that apply. Thus, if the Canadian Forces does not provide the dental care, the Reservist will be out of pocket some or all of the costs associated with the necessary treatment.

250 Following intervention by this Office, the Canadian Forces Dental Services reassessed the aforementioned Reserve member’s situation and agreed to provide the necessary treatment for his condition.

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251 **Continuity of Care**

252 For those Reservists who have been able to access health care from the Canadian Forces, there remains one more hurdle to cross: appropriate follow-up or continuity of care.

253 In a narrow perspective, continuity of care means that a patient receives consistent care, preferably through long-term doctor/patient relationships. In a wider perspective, and one articulated by a former Chief of the Defence Staff, continuity of care means that the Canadian Forces must provide all sick and injured personnel with coordinated and comprehensive medical support programs that provide continuity of medical care while serving, and that appropriate liaison/hand-off procedures are in place for a seamless transition as the members' medical care ceases to be a Canadian Forces responsibility and falls under the jurisdiction of other organizations or systems.<sup>14</sup>

254 QR&O section 34.07 (6) (b) stipulates that a member who suffers an injury attributable to service may receive medical care at the Canadian Forces' expense beyond the termination of their "period of duty" as authorized by the Commanding Officer.

255 It was reassuring to find, as our investigators did, that, for the most part, Reservists interviewed during the course of this investigation who were injured on missions overseas have had their Class C service extended upon repatriation and receive good continuity of medical care. That care is provided until the member is fit to return to regular duties or until the member is medically released from the Canadian Forces.

256 On the other hand, it was disappointing to find that, for the most part, those Reservists who suffer an injury attributable to service in Canada do not have their contracts extended, and thus cease to be eligible for care provided by the Canadian Forces at the end of that contract period. While the Chief of Military Personnel recently reiterated the Class C extension policy pertaining to injuries or illness suffered by Reservists in a special duty area, it is silent on those whose injuries or illness occur while on Class A or Class B service less than 180 days.<sup>15</sup>

257 We spoke with various Canadian Forces medical officers and clinic personnel who told us that once an injured Reservist's medical care is taken over by the provincial health care system, their involvement with the member ceases.

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<sup>14</sup> Presentation to the Standing Committee on National Defence and Veterans Affairs in 1998 by General Baril, Chief of the Defence Staff, available online at: [http://www.dnd.ca/hr/scondva/Engraph/040698\\_e.asp](http://www.dnd.ca/hr/scondva/Engraph/040698_e.asp) .

<sup>15</sup> CANFORGEN 174/07.



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There is no single point of coordination, or set guidelines, to allow for the tracking of most injured Reservists once responsibility for their care has been transferred to the provincial health care system. As a result, the Canadian Forces is unable to maintain knowledge of the Reserve member's medical status, which may subsequently affect his career status, his unit's readiness, and most importantly, his follow-up support needs.

258 For example, a Class B Reservist was seriously injured in September 2005 while on duty with a Regular Force unit. The member was paid for the three months remaining on his contract while on sick leave and received medical and dental attention. This would have ended at the end of 2005 without the intervention of his home unit, even though he continued to need an enormous amount of support (surgery, extensive dental work and financial assistance) to recover from the injuries he sustained on duty. He continued to receive care only because his home unit learned of his situation, recognized that he was in dire need of assistance, and arranged a series of contract extensions so that he could continue to receive treatment. The unit also provided the member with unit funds to assist with his transportation and other needs until he was finally declared fit in May 2007.

259 The Reserve unit is to be commended for their work in ensuring that the member continued to receive care. However, the fact remains that the need for Reserve unit involvement demonstrates a failure on the part of the system. If appropriate policies and procedures had been in place, the medical and administrative systems, working together, would have identified the specific needs of this member before leaving the Regular Force unit, and would have ensured the necessary continuity of care without the requirement for Reserve unit intervention.

260 We are not alone in this view. There was a general consensus among those senior and general officers we interviewed, both in units and in the medical community, that if a Reservist suffers an illness or injury on duty or attributable to military service, the Canadian Forces must be responsible for initial and all follow-up medical and dental care. A number of these concerned leaders proposed that there be a national standard that is summed up in the phrase, "*If we break them we fix them.*"

261 **Concluding Remarks and Recommendations**

262 We agree with those senior officers and health care providers who want to ensure that all Canadian Forces members injured in the line of duty receive all the necessary treatment, whether by military or civilian practitioner, from the Canadian Forces. The Canadian Forces have both a moral and a legal obligation to do so.

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263 While some might argue that, in the circumstances just described, this entitlement already exists, the reality is that decisions are taken on a case-by-case basis. Reservists are treated in very different ways, some appropriate, some not. This is unfair.

264 Our Office has previously recommended that the regulatory framework be reformed in order to remove the confusion that now exists. In order to achieve fair and appropriate treatment for Reservists, the entitlements for health care when the injury or illness is attributable to military service must also be explained. To achieve this,

265 **We recommend that the framework for medical and dental care recognize the obligation for the Canadian Forces to provide Reservists (whether by Canadian Forces caregivers or by external health care providers) with the comprehensive health care they require as a result of illness or injury attributable to military service.**

266 Such care must be provided until the member is found fit and resumes duties or is medically released and Veterans Affairs Canada assumes responsibility for the member's welfare.

267 Unfairness can also occur when part-time Reservists serve temporarily away from their home location and can access neither their family care provider (because of distance), nor military care because of their class of service or because the need for care was not attributable to military service. Referral to a provincial health system brings numerous complications, including: transportation difficulties; finding an available doctor or dentist (which is not always possible); loss of training or duty time; payment issues including, at times, "out-of-province" status; unavailability of health records; and continuity of care challenges.

268 Since Class A and Class B Reservists serving 180 days or less are sometimes separated from their civilian health care provider because of their military service, it is unfair that they be directed to access the provincial health care system at their temporary location. Therefore,

269 **We recommend that the framework for medical and dental care identify the Canadian Force's responsibility to provide medical and dental care to all Reservists who need it while serving away from their civilian health care providers.**

270 The implementation of the recommendations concerning the provision of medical care to Reservists would diminish the need to determine entitlements on a case-by-case basis, and this, in turn, would promote consistency and equality across regions and clinics.

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271 A reformed framework that includes the policies we recommend may not result  
in every issue being resolved. However, the clarification of principles and  
values will allow for a uniform approach and easier resolution of difficult cases  
and files.

272 In this regard, serious consideration should be given to including a principle in  
the framework that gives the benefit of the doubt to the Reservist when a  
decision concerning the member's entitlement to medical and dental care is  
taken. This is not a new concept. A similar principle is already used in the  
*Pension Act* (R.S.C. 1985, c. P-6), where it states that:

273 *5. (3) In making a decision under this Act, the Minister shall*

274 *(a) draw from all the circumstances of the case and all the evidence  
presented to the Minister, every reasonable inference in favour of the  
applicant or pensioner;*

275 *(b) accept any uncontradicted evidence presented to the Minister by the  
applicant or pensioner that the Minister considers to be credible in the  
circumstances; and*

276 *(c) resolve in favour of the applicant or pensioner any doubt, in the  
weighing of evidence, as to whether the applicant or pensioner has  
established a case. [emphasis added]*

277 Therefore,

278 **We recommend that the new framework for medical and dental care  
contain a general direction to decision makers that it should be  
interpreted and applied in a fair and generous manner and that, in  
cases where issues of entitlement are unclear, the decision shall be  
resolved in favour of the member.**

279

## Consistency of Standards

### 280 *Background*

281 Although the majority of Reservists serve part time, more of them than ever are  
volunteering for full-time duty on Canadian Forces missions and deployments.  
The expectations placed on Reservists to be medically, physically and  
psychosocially fit and ready for employment and deployment have never been  
greater. Indeed, Reservists are explicitly expected to meet and maintain the  
same standards of fitness for employment and deployment as Regular Force  
members.<sup>16</sup>

282 This is as it should be. If standards are legitimately set, they must apply to  
everyone. Double standards – one for the Regular Force and another for the  
Reserve Force – are not fair to anyone.

283 The need for one set of standards works both ways. It is fair for the Canadian  
Forces to expect Reserve Force personnel to meet and maintain the same  
standards of fitness for employment and deployment as Regular Force  
members. It is also fair for Reserve Force personnel to be provided with  
essentially the same level of support in achieving those standards as that  
received by Regular Force members.

284 Unfortunately, this is not always the case. While the primary focus of our  
investigation was the treatment of injured Reservists, other health issues  
impacting Reservists were frequently brought to the attention of Ombudsman  
investigators. Addressing these issues is legitimate in this context, because  
these occupational health measures bear on health care available to Reservists.  
If only Regular Force members and a few Reservists benefit from these  
measures, there will still exist a significant unfairness for the remaining  
Reservists.

285 In particular, our Office has concerns with the following primary  
operational/occupational health issues:

- 286
- **Periodic health examinations or assessments** – Everyone requires a  
health examination on a regular basis in order to receive early warning  
of possible health problems. This is even more important for Canadian  
Forces members because of their occupation and working conditions.

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<sup>16</sup> Defence Administrative Orders and Directives 5023-0 – Universality of Service, and Defence  
Administrative Orders and Directives 5023-1 – Minimum Operational Standards Related to  
Universality of Service.

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- 287       • **Immunizations** – To provide protection from disease and other conditions, immunizations are essential. By virtue of their hazardous working conditions, Canadian Forces members are exposed more frequently to risks.
- 288       • **Physical fitness requirements** – A difficult and demanding working environment requires a superior level of fitness. An operationally focused Canadian Forces has recently emphasized the need for physically fit members.
- 289       • **Health records** – The health system requires that medical records be kept to a high standard. Therefore, there should be no difference in the treatment of Regular and Reserve Force medical records, whether in terms of the maintenance of these records or in the personnel who can access them.

290       Each of these issues will be examined in turn.

291       ***Periodic Health Assessments***

292       In the military, a periodic health assessment is also called a “medical.” A medical is considered current if it has been done within the last five years for members under 40 years of age, within the last two years for members aged 40 to 50, and within the last year for those members older than 50.

293       The Canadian Forces provides medicals to these standards for Regular Force members. By contrast, Reservists are only given medicals for enrolment, release, promotion, and prior to proceeding on Class B service of more than 180 days or Class C service. Reservists who have not recently been promoted or deployed may go years without having a medical assessment by the Canadian Forces. Therefore, a significant number of Reservists do not have current Canadian Forces medicals on file.

294       This difference can have a negative impact on Reserve personnel who are needed for domestic immediate operations, which are short notice operations requiring the immediate mobilization of members. In these cases, there is insufficient time to conduct a formal screening process. Chief of Military Personnel Instruction 20/04 states that for domestic immediate operations, the Commanding Officer must certify that the member has a current medical on file. Those without must undergo a medical assessment and be found fit or be excluded from the deployment.

295       A number of Reservists on Class A and Class B service of 180 days or less do not have current medicals on their file because there is no defined policy stating that they are required, nor are they eligible to receive periodic health

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assessments from the Canadian Forces. Although the present policy does not require periodic health assessments to be current, Reservists are expected to be fit, employable and deployable for general operational duties.

296 The absence of an up-to-date periodic health assessment record for Reservists limits the Canadian Forces' capability to efficiently screen for domestic operations in a timely manner. We were told that Canadian Forces Health Services does not have sufficient personnel to medically assess Reservists en masse and on short notice for domestic operations.

297 A senior medical authority advised our investigators that when the Canadian Forces mobilized Reservists in 2003 to fight forest fires in British Columbia,<sup>17</sup> there were risks taken:

298 *...the blip is manageable and predictable when it comes to the numbers that we look forward [sic] to go on a rotation to Afghanistan, for example. The numbers were not manageable when we mobilized basically everybody to fight the BC forest fires. We ended up doing some pretty slipshod, shortcut kinds of things to get everybody documented and put on Class C. I wasn't very happy about it, but...*

299 Others confirmed this view. Our investigators were told that the Canadian Forces do not have the capacity to do complete medical assessments on short notice for a substantial number of Reservists (as would be required for emergency domestic operations), and that the only way to do this many short notice assessments would be to reduce the quality.

300 The consequences that result from this situation are:

- 301
- Members are sent on missions without sufficient screening, leading to the inclusion of unhealthy members on operations and the associated risks to their well-being and that of others;
- 302
- Members are not sent on operations because they cannot be screened for medical fitness, leading to the exclusion of healthy, medically-fit and capable Reservists; and
- 303
- Medical practitioners are placed in an ethical dilemma as a result of having to balance the need of the individual Reservist for a thorough screening against the needs of the public in having a robust response to the domestic emergency.

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<sup>17</sup> Operation Peregrine was Canadian Forces assistance to the Government of British Columbia to fight forest fires. The operation lasted 45 days, from August 3 to September 16, 2003, and involved approximately 2,600 Canadian Forces personnel, including 900 Reservists.

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304 The lessons learned report from Operation Peregrine included a comment that  
“the procedure to put Reservists on Class C service is cumbersome and  
NDHQ-centered, creating an administrative burden and putting at risk a  
timely response to the operational requirements.” The proposed solution to the  
cumbersome process was to waive the need for a current medical status for  
Reservists.

305 Our Office takes vigorous exception to the solution proposed, since it breaches  
a fundamental principle of fairness. In this case, the Canadian Forces duty of  
care is essentially the same for Reserve Force personnel as it is for Regular  
Force personnel. If a qualified authority deems that a current medical  
assessment is necessary for determining the medical fitness status of a Regular  
Force member for the purpose of deployment on operations, then the same  
standard must be applied to a Reservist. If this requirement can be waived for a  
Reservist, then one must question the value and validity of the requirement in  
the first place.

306 This matter is not lost on some Reserve commanders who have taken  
initiatives on their own. A staff officer in personnel at a Reserve brigade  
headquarters told investigators:

307 *Our Commander has been pushing this the last couple of years. He’s  
directed to each one of the COs [Commanding Officers] that everyone  
is to have a periodical medical. That is something that we are taking on  
our own because we are not built for that in the system. So therefore it  
comes out of the hide of the unit budget to make it happen.*

308 The issue of appropriate standards for periodic health assessments was also  
discussed at the June 2007 meeting of the Strategic Military Human Resources  
Council. At that meeting, Council endorsed the adoption of a standard for  
periodic health assessments for implementation in Fall 2008 or January 2009.  
This standard called for assessments every two years for both the Regular  
Force and the Primary Reserve.

309 We note with approval that this approach applies equally to both Regular and  
Reserve Force personnel. However, it is not yet implemented, and in the  
interim, it is unfair that most Reservists do not enjoy the same protection  
gained from periodic health assessments as their full-time counterparts. Sick,  
injured or medically unfit Reservists need to be identified through periodic  
health assessments in order to prevent further injury to themselves, or  
increased risk to other members of their unit. Therefore,

310 **We recommend that, within 12 months following the publication of  
this report, the standards for periodic health assessments be applied  
equally for Primary Reserve and Regular Force personnel.**

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311 *Immunizations*

312 Military personnel, by the nature of their work, are more liable to be exposed to risks or circumstances that could adversely affect their health. One of the ways of protecting personnel from some of these risks is to provide appropriate and timely vaccines and immunizations. Some of these immunizations and vaccines are considered to be necessary no matter where the member is employed. Other immunizations or vaccines are specific to the theatre of operations, and the specific public health conditions that exist there.

313 When Canadian Forces members are selected for overseas operations, there is sufficient time to permit the necessary immunizations. However, as noted in the previous section, domestic operations do not generally offer the same degree of advance notice. There is normally not enough time and resources to provide immunizations for a large number of Reserve members who have to be deployed on short notice for domestic operations.

314 While all adults in Canada should continue to ensure that their vaccinations and immunizations remain up to date, many do not unless they are required to do so as a condition of employment (such as health care personnel). Regular Force personnel are among those required to be up to date at all times for the immunizations and vaccines required for personnel living and working in Canada (i.e. domestic operations). Reservists on Class B service for more than 180 days and Class C service are entitled to receive the same standard of immunization as Regular Force members.

315 On the other hand, those on Class A and Class B service of 180 days or less are not entitled to routine immunizations given by or paid for by the Canadian Forces. Thus, these Reservists are no more likely to have up-to-date immunizations and vaccines than are members of the Canadian public at large.

316 This issue came to the forefront recently when an Area Surgeon from one of the land force areas refused to recommend employment of Class A Reservists on a series of exercises in early 2007 until such time as they had been immunized to the same standards as Regular Force personnel. As he wrote in an e-mail to the Area Commander, *“I cannot recommend employment of Reservists on Class A unless I am convinced that we minimize risks to their health. To do otherwise would breach my professional responsibilities towards our members, their chain of command as well as the College of Physicians...”*

317 An interview with a Chief of the Land Staff Medical Advisor revealed that this position was not supported by the medical chain of command, which was concerned that the Area Surgeon was, in essence, changing medical policy at his level and that this decision created an inconsistency in terms of the specific care that people were going to get in one area compared to the other areas.



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However, since the Area Commander was willing to pay for the immunizations, and since there was no medical reason to prevent them, they were permitted, and the exercises subsequently took place.

318 The concern about inconsistency of treatment of personnel in different Land Force Areas is valid. This does constitute unfair treatment for those in other regions who are not provided the immunizations but are exposed to the same risks. But the issue is even larger. It is not fair that the Canadian Forces have a standard for the provision of immunizations that applies differently to the Regular and Reserve Force members, considering that they may both be employed and deployed on the same domestic operations.

319 It is not the intent of this investigation to determine what level of immunizations is appropriate for military personnel. However, as stated earlier: When a qualified and responsible authority sets a standard in order to ensure the health and safety of personnel or the effectiveness and efficiency of operations, the standard should be applied equitably and fairly.

320 The Canadian Forces must address the issue of immunizations for Reservists. Therefore,

321 **We recommend that, within 12 months following the publication of this report, the Canadian Forces:**

322 • **Publish immunization/vaccination requirements that apply to all military personnel (Regular and Primary Reserve Force) engaged in domestic operations and training; and**

323 • **Put in place a mechanism for the provision of these immunizations/vaccinations at public expense to both Primary Reserve and Regular Force members.**

324 *Physical Fitness and Testing*

325 In the previous two sections (“Periodic Health Assessments” and “Immunizations”) different standards were being applied to Reservists. This is not the problem with fitness requirements. There is a common standard for both requirements and testing. However, even with a common standard, there is an inequity.

326 In 2005, the Chief of the Defence Staff launched the first stage of a process to reinvigorate the military culture of fitness. This focused on baseline testing of physical fitness for all members of the Regular Force and members of the Reserve Force on Class B service more than 180 days and Class C service. In

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2006, this was extended to all members of the Primary Reserves. The Chief of the Defence Staff subsequently instructed that physical fitness testing of Reservists on Class C and B service more than 180 days was to be completed by March 31, 2007, and that testing of Reservists on Class A service was to be completed by June 2008.<sup>18</sup>

- 327 This baseline testing is not a one-time effort: Primary Reservists will now be required to undergo annual physical fitness testing as part of meeting minimum operational standards. Waivers may be authorized for those Reservists not yet tested during the two-year phase-in period and who are needed for deployment on short-notice domestic operations.<sup>19</sup> Members who fail the physical fitness test are ineligible for Class C service for deployments. Remedial physical fitness training, retesting and if necessary career administrative measures will be initiated for those who fail to meet the applicable standards.
- 328 Maintaining a personal physical fitness regime is the responsibility of the member, as well as a requirement of service.<sup>20</sup> In order to meet and maintain the fitness standards, personnel must train. Some training can take place during official duty time. However, for most personnel, and especially for Reservists, much, if not most, of their training will occur on personal time. During fitness training, accidents and injuries happen. While some of these will be minor, others will unavoidably be serious.
- 329 If Regular Force members and Reservists on Class B service of more than 180 days and Class C service injure themselves while conducting physical fitness training, they are entitled to all of the health care, programs, pay, compensation and benefits provided by the Canadian Forces, as well as any additional follow up, such as physiotherapy, that may be required to assist them in their recovery.
- 330 The situation is not as clear for Reservists on Class A and Class B service of 180 days or less. Many of these Reservists and their chains of command expressed concerns that if they were injured on their own time while participating in a physical fitness activity that they:
- 331       • Would not be provided with Canadian Forces medical care and might therefore incur out-of-pocket costs for medical treatments, such as physiotherapy or chiropractic services, should these form a necessary part of their treatment;
- 332       • Might not be compensated for lost pay from their civilian employment; and

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<sup>18</sup> CANFORGEN 002/07.

<sup>19</sup> CANFORGEN 126/06.

<sup>20</sup> CANFORGEN 022/07.

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333           • Might not be eligible for benefits from Veterans Affairs Canada.

334           Our Office believes that these concerns are valid, and we will address each one in turn.

335           **Medical Care for Fitness Training Injuries**

336           Given our Office’s conclusions about the confusion surrounding the entitlements of Reservists to medical care, and the inconsistency surrounding continuity of care, we are not at all confident that, as things now stand, Reservists on Class A and B service of 180 days or less who injure themselves on fitness training would receive medical care from the Canadian Forces.

337           **Compensation for Lost Pay**

338           Injured or disabled Regular Force members continue to receive their service income regardless of the circumstances of their injury. Reservists injured or disabled while on duty would appear to be eligible for compensation for lost pay. However, the question remains: Would Reservists who are injured while training on their own time – in order to meet the physical fitness needs of the Canadian Forces – be covered for any loss of income that results?

339           Compensation and Benefit Instruction 210.72 *Compensation for Disability – Reserve Force*<sup>21</sup> provides for continued payment of Reserve pay (based on the rank and type of contract in effect at the time of the injury) for a period of up to three months (longer with Ministerial approval) for injuries “attributable to service.” For injuries “not attributable to service” and “not as a result of the member’s misconduct or imprudence” there is an entitlement to reserve pay only until the member is released or returned home, whichever occurs first.

340           So, full-time Reserve members appear to be treated largely the same as Regular Force members in that they continue to be paid while recovering from an injury related to fitness training. However, the Compensation and Benefits Instruction might not be adequate for a part-time Reservist whose primary source of income is from non-military employment.

341           Payment of service income by the Department of National Defence is not the only potential source of assistance for Reservists. Human Resources and Social

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<sup>21</sup> Compensation and Benefit Instruction 210.72 is available online at: [http://www.forces.gc.ca/dgcb/cbi/engraph/home\\_e.asp?sidesection=6&Section=210.72&sidecat=27&Chapter=210#210.72](http://www.forces.gc.ca/dgcb/cbi/engraph/home_e.asp?sidesection=6&Section=210.72&sidecat=27&Chapter=210#210.72) .

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Development Canada manages the Federal Government Compensation Service, and is responsible for the application of the *Government Employees Compensation Act* (R.S.C. 1985, c. G-5). That Act provides that employees are entitled to compensation if they are injured by an accident arising out of and in the course of their employment. The rate of compensation and the conditions under which they receive compensation are the same as those provided under the law of the province where the employee is usually employed. The definition of “employee” under the Act includes “*any person in the service of Her Majesty who is paid a direct wage or salary by or on behalf of Her Majesty.*” While the Act specifically states that it does not apply to any person who is a member of the **Regular Force** of the Canadian Forces, apparently, members of the **Reserve Force** – whatever their class or term of service – do fall under the Act.

- 342 According to the Director, Federal Workers’ Compensation Service, the informal agreement they have with the Department of National Defence and the Canadian Forces is that when they receive an application from a Reservist, they check with the Department to see if the same person has applied with them. Then the Reservist would have to choose the program under which to apply. Generally, the benefits described in Compensation and Benefits Instruction 201.72 would provide better compensation for full-time Reservists, while the Federal Workers’ Compensation Service would provide better compensation for part-time Reservists with full-time civilian jobs. Part-time Reservists may still be eligible to receive compensation for loss of wages – including the wages paid by their full-time employer – under this program, regardless of whether their full-time employment is in the public or private sector.
- 343 In practice, the way the service works is that the Reservist would apply to the appropriate provincial workers compensation plan.<sup>22</sup> Reservists would be eligible for the full range of benefits, as determined by the provincial decision-maker applying provincial legislation. The province would then recover the money from Human Resources and Social Development Canada, which recovers the money from the Department and the Canadian Forces.
- 344 If part-time Reservists – who are now required to be physically fit – get injured while training on their own time, would that be considered as arising “out of and in the course of [their] employment,” and would they still be eligible for compensation for loss of their civilian wages? According to the Director of the Federal Employees Compensation Service, that would be determined by the provincial authorities. The way in which lost earnings are

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<sup>22</sup> Under the Act, federal employees employed outside of Canada are deemed to be employed in Ontario.

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calculated (specifically, the other kinds of income included in the calculation and any upper limits on payments) would also be determined according to the criteria of the provincial legislation in which the application is made.

345 Finally, there is the possibility of Long Term Disability benefits under the Service Income Security Insurance Plan, a disability group insurance plan that provides members with replacement income protection if they are released from the Canadian Forces for medical reasons, or if they become totally disabled. This coverage is automatic for all Canadian Forces members, including Primary Reservists. Regular Force members and Reservists on Class C and Class B service over 180 days pay 15 percent of the premiums and the Treasury Board of Canada pays 85 percent. All other Reserve Force members' premiums are paid entirely by the Treasury Board of Canada.

346 However, it only guarantees replacement of "service" income, or income earned as a Canadian Forces member. Reserve Force members on Class A and Class B service of 180 days or less may be eligible for up to 75 percent of a deemed monthly income of \$2,000. As well, their eligibility for coverage is tied to periods for which they are "on duty," which is defined as the period that a member is "*authorized and entitled to pay during the performance of primary Reserve service.*"<sup>23</sup> The definition of "on duty" does not appear to include fitness training outside of duty hours.

347 Reservists should have the same protection against loss of income that Regular Force members receive if they become injured or disabled as a result of military service. While there appear to be several potential sources of income or income replacement for injured Reservists, it is unclear whether Reservists who sustain injury on their own time while striving to meet the Canadian Force's fitness standard are eligible for these programs.

348 **Eligibility for Veterans Affairs Canada Benefits**

349 Prior to April 1, 2006, Veterans Affairs Canada awarded compensation under the *Pension Act* to former and current Regular Force and Reserve members. Compensation was awarded to those who suffered a disability resulting from an injury or disease or an aggravation thereof that was attributable to, or was incurred during, such military service. This was not considered income replacement but compensation for disabilities.

350 Veterans Affairs Canada determine if the disability is attributable to military service. When it came to disabilities sustained during off-duty fitness activities, rulings under the *Pension Act* provided numerous examples where the

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<sup>23</sup> Service Income Security Insurance Plan website [http://www.sisip.ca/en/Insurance\\_e/ltd\\_e.asp](http://www.sisip.ca/en/Insurance_e/ltd_e.asp) .

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applicant was denied benefits because it was held that the injury did not occur as a direct result of military service.

351 The *Pension Act* has now been replaced by the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* (S.C. 2005, c. C-16.8). This Act, which came into effect April 1, 2006, states that disability compensation awards will be provided for a disability resulting from a service-related injury or disease; or a non-service-related injury or disease that was aggravated by service. Since this remains the responsibility of Veterans Affairs Canada, it is likely that they will continue to take a similar approach to defining “service-related” injuries.

352 There may be a disconnect between the Canadian Forces’s understanding of service-related injuries and Veterans Affairs Canada’s. While Reservists have expressed their concerns about their eligibility for these benefits, the issue affects Regular Force members as well. All would benefit from a consistent approach to what constitutes an injury attributable to military service.

### 353 **Concluding Remarks and Recommendation**

354 The Canadian Forces have clearly defined a common fitness standard for all members of the Regular Force and the Primary Reserve. However, this common standard is not backed up by regulations and policies that would support Reserve Force personnel, particularly those on Class A service or on Class B service of 180 days or less, as they engage in fitness activities for the purpose of meeting and maintaining this fitness standard.

355 It is not fair to Reservists that they have the same obligations to attain and maintain a level of fitness without having access to appropriate support should they be injured as they train to meet these obligations. Since the fitness requirements are already in effect, it is a matter of some urgency that the Canadian Forces take steps to provide the necessary support. Therefore,

356 **We recommend that, within 12 months following the publication of this report, the Canadian Forces develop a framework to ensure that Reservists receive fair compensation for lost income and proper medical care when they suffer injuries as a result of engaging in training activities to attain or maintain Canadian Forces physical standards.**

### 357 *Reserve Health Records*

#### 358 **Custody and Handling Standards**

359 A health record is a compilation of pertinent facts of an individual’s health history, including all past and present medical conditions, illnesses and

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treatments, with specific events affecting the patient during care. Health care professionals providing the care create the information documented in the health record. Many different health care providers can be involved in the care of each patient and each relies on the documentation collected and recorded by the others. It can be difficult to successfully administer care to patients without the support of well-managed health records.

360 Over the course of this investigation, Ombudsman investigators noted several problems with regard to Primary Reserve health records, including:

- 361 • Health records not being safeguarded to the same level of security as those maintained by the Regular Force, and
- 362 • Health records not being updated.

363 These are not new concerns. The Chief of Review Services completed a review of Canadian Forces medical services in October 1999 and noted various deficiencies in records management. (The report did not differentiate between Regular and Reserve Force records.)

364 The Canadian Forces Health Services are trying to address the problem. In November 2002, they launched an electronic health record project known as the Canadian Forces Health Information System. Its goal is to provide a modern and effective electronic health information management capability, which will fundamentally change how they record, store and access Canadian Forces health records. This project will cover health records for all military personnel, both Regular and Reserve, and aims to eventually eliminate the need to have paper health records.<sup>24</sup>

365 In the interim, however, there are problems. For example, an interview with the Canadian Forces Health Information System project team leader revealed that although there were over 31,000 health records on Reserve Force personnel that were stored in Regular Force health facilities a year ago, and therefore have the same level of security and care as health records for Regular Force personnel, there remains approximately 5,000 Primary Reserve records that have not been captured by the supporting Regular Force health facility.

366 Although efforts are underway to confirm numbers and locations of these files and to determine where they should be stored and maintained, investigators were given a very clear example of how health records of Reservists that are

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<sup>24</sup> In her October 2007 report, the Auditor General also discussed this project, but was more concerned with the data analysis capability of the system, rather than the control and maintenance of health records, which is the focus of our observations.

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not in the custody and control of the supporting Regular Force health facility can be poorly stored and managed.

367 During an inspection of a subordinate Reserve medical organization, a team from the Regular Force clinic discovered a drawer full of Reservist health records. Some of these documents were unopened, others dated back several years, and none had been filed. This type of situation illustrates the need for moving Reservist health records to Regular Force facilities.

368 While much has been done to implement the proper control and accessibility of Reserve health records, the task is not yet complete. While the Canadian Forces Health Information System holds significant promise to prevent these occurrences, full implementation is not in the immediate future. Reservists deserve to have the assurance now that personal medical information about them is managed appropriately and with the utmost confidentiality. There must be a single standard of care for health records, both for Regular Force members and for Reservists. This is not the case at the moment. Therefore,

369 **We recommend that the Canadian Forces take immediate action to maintain and safeguard all Reserve Force health records to the same standard as the Regular Force.**

370 **Portability of Health Records**

371 A secondary issue relating to health records is the practice of sending the medical file of a Regular Force member upon release to National Archives and creating a new medical file if that member transfers to the Reserves. Any attending Canadian Forces health care provider suddenly has no medical history on the former Regular Force member.

372 More particularly, a working group looking after personnel policy has previously discussed this matter as part of a larger issue dealing with service records. This working group noted that there is no logical standard for generating and maintaining service records and indicated that the current process widens the possibility for incomplete or inconsistent records as members move between components. The working group urged a ‘one member, one service record’ concept regardless of component.

373 Creating a new health record as a Regular Force member transfers to the Reserves is completely illogical and indeed is a safety issue that can affect continuity of care provided to the member. Therefore,

374 **We recommend that health records follow the member during component transfers and re-enrollments.**





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## **Benefits for Injured Reservists**

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### ***Introduction***

377

This section addresses two issues. The first is an inequity in dismemberment insurance benefits as a result of part-time Reservists receiving a reduced insurance payout for loss. The second issue concerns the ineligibility of Supplementary Reservists serving in the Primary Reserve to have access to disability and other benefits. In each instance there are two standards, which breaches principles of fundamental fairness.

378

### ***Accidental Dismemberment Insurance Plan***

379

The Canadian Forces has an Accidental Dismemberment Insurance Plan<sup>25</sup> (a part of the Service Income Security Insurance Plan), which provides a lump sum benefit for an accidental dismemberment or the loss of sight, speech or hearing, which is attributable to military service. The member does not pay premiums for accidental dismemberment coverage; the plan is funded by the Department of National Defence. Although it is a Canadian Forces plan, the Treasury Board of Canada has governance of the Accidental Dismemberment Insurance Plan.

380

The maximum amount payable (as of November 2007) by the Plan to Regular Force personnel, to Reservists on Class C contracts, and to “long term Class B members” is \$250,000, whereas the maximum payable to “Class A and short term Class B members” is \$100,000. Indemnities for various classes of dismemberment are based on a percentage of the maximum figure. For example, loss of both hands would count for 100 percent whereas loss of one hand would be 50 percent.

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Thus, if a Class A Reservist and a Regular Force member were involved in the same accident, and each lost one hand, the Regular Force member would be compensated for \$125,000 compared to the Reservist at \$50,000.

382

Many Reserve members we spoke to were not aware that this Accidental Dismemberment Insurance Plan benefit exists. Those who were aware of the benefit did not know that there was a difference in benefits depending on the class of Reserve service.

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By contrast, many Regular Force officers who worked with the Reserve Force were well aware of this disparity, and were embarrassed about it. A former Director General Land Reserves told us:

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<sup>25</sup> Information on the Accidental Dismemberment Insurance Plan is available online at: [http://www.sisip.com/en/Insurance\\_e/ad\\_e.asp](http://www.sisip.com/en/Insurance_e/ad_e.asp).

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384       ... everybody gets up there, and says 'we can't do what we're doing today without the Reserves;' then let's look after them to ensure they're going to be there when we need them. If we start saying, 'Well, this doesn't apply to you because you're a Reservist and only get 40 percent as opposed to 100 percent,' they're going to go, 'Well, I'm not putting myself in harm's way if you're not going to treat me the same way as my brother who's in the Regular Force.'

385       And a Regular Force Lieutenant-Colonel commanding a Reserve service battalion said:

386       *So, as a regular in a Reserve unit, I really dislike when we have two policies. So I have a hard time when I have to tell [my Regular Force] soldiers, 'this is your benefit,' and then look over [to my Reserve Force soldiers] and say, 'this is your benefit.'*

387       The department is aware of this matter and is working to correct this egregious deficiency. It cannot happen quickly enough. It is unacceptable that the dollar value of a leg or an arm or an eye should be different for Canadian Force members depending upon their class of service.

388       The Service Income Security Insurance Plan management has informed us that there has not been a single claim paid under the Accidental Dismemberment Insurance Plan to a Reservist on Class A or Class B service of 180 days or less since the implementation of the plan on February 13, 2003. Nevertheless, it would be prudent to take action to ensure that no one falls through the cracks. Therefore,

389       **We recommend that the Accidental Dismemberment Insurance Plan be changed, retroactive to February 13, 2003, to ensure that all Canadian Forces members receive the same compensation for the same injury.**

390       *Supplementary Reserve*

391       The Supplementary Reserve is comprised of personnel with previous military service who are willing to remain available for voluntary military service in an emergency. In recent years, the Supplementary Reserve has been used to mitigate personnel shortages in the Canadian Forces. For example, this year, the Vice Chief of the Defence Staff wrote to a large number of Supplementary Reservists asking if they were interested in rejoining the Canadian Forces to assist the Army in a variety of ways.

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392 Normally, a member of the Supplementary Reserve who consents to return to military service does so through the Primary Reserve. However, in some cases their former Regular Force military occupations do not exist in the Primary Reserve. To get around this, the Canadian Forces has been using an administrative procedure termed “ attached posting” to effect the move.

393 Attached postings are supposed to be used when there is a requirement to assign a military member, on a temporary basis, to a unit. In the context of Supplementary Reserve members, this means that the Supplementary Reserve member is temporarily rather than permanently assigned to the Primary Reserve. However, investigators were told during a meeting with Director Personnel Generation Policy 5 that some organizations are attach posting Supplementary Reservists to the Primary Reserve simply because it was administratively more convenient.

394 Unfortunately, this administrative convenience could result in significant penalties for the Reservist. According to the Director Quality of Life 5-3, long-term disability benefits through the Service Income Security Insurance Plan and benefits under the Accidental Dismemberment Insurance Plan are not available to injured Supplementary Reservists who are attached posted to the Primary Reserve and serving on Class A, B or C service, even though these personnel are subject to the same risks and liability to injury as other Canadian Forces members.

395 While we have not found evidence to indicate that there have been any Supplementary Reserve personnel who have developed a disability while on such service, the potential consequence, if this were to happen, is simply unacceptable.

396 It is unfair that there is a distinction in benefits when there is no distinction in employment. Accordingly,

397 **We recommend that the Canadian Forces take immediate action to ensure that all Supplementary Reservists who are attach posted to the Primary Reserve receive the same benefits as their counterparts.**

398 As noted above, our investigators were not made aware of any situation so far where members of the Supplementary Reserve have developed a disability while attach posted to the Primary Reserve. However, given that the possibility exists, the onus is on the Canadian Forces to ensure that people are treated fairly. Therefore, the above recommendation must include the possibility of retroactivity for anyone who developed a disability at any time while attached posted from the Supplementary Reserve to the Primary Reserve.



399

## **Reserve Administration**

### **400 *Medical Releases for Reservists***

401 The focus of this investigation was the treatment of injured Reservists; however, investigators also learned that there are significant concerns and issues with respect to the administrative burden imposed on Reserve units. Interviews with Commanding Officers, adjutants and unit chief clerks, and with the personnel branch staff at formation headquarters revealed that Reserve units (particularly Army Reserve units) are not adequately resourced to conduct the administration they are mandated to perform, nor is their staff adequately trained.

402 Concerns about Reserve administration are not new. The 1994 report *Special Commission on the Restructuring of the Reserves* stated that Militia units (as well as units from other Reserve components) had reported that the administrative burden put on them was overwhelming. In 2000, the *Fraser Report* prepared by the Minister's Monitoring Committee on Change noted the inordinate administrative burden on local units and their Commanding Officers and recommended that steps be taken to fix chronic problems in the way the Reserves system is administered.

403 The local administration of Reserve units is more complex than that of Regular Force units because individual Reserve units are self-contained and therefore responsible for a broader range of administration. For example, the release process, including medical releases, is far more decentralized for the Reserve Force than it is for the Regular Force.

404 Given a situation of greater complexity, one would expect a matching allocation of resources – either more personnel, or people with greater experience and training. We found the reverse: administration sections in Reserve units generally did not have their full complement of Resource Management Support clerks, with the slack being taken up by unit Reserve personnel from other trades trying to fill in. A number of unit chief clerks told us that even where Resource Management Support clerks exist, the difference between the Regular and Reserve Force processes means that even experienced clerks have a learning curve before they can be fully productive.

405 While these administrative difficulties affect all aspects of the military experience of part-time Reservists, we note them in the context of this investigation because the problem results in inadequate support to injured Reservists and their families, particularly with respect to administering medical releases. The problems include:

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- 406       • The Reservist is unable to access or can only obtain late access to case  
          managers because of delays in medical release authorization,
- 407       • Delays in processing medical releases result in members not receiving  
          their Reserve Force Retirement Gratuity in a reasonable amount of  
          time, and
- 408       • The ability of injured Reservists to access the Service Income Security  
          Insurance Plan benefits is frequently compromised.

409       At one medical clinic, investigators were told:

410       *[Reserve] Units don't really seem to be able to administer the  
          paperwork consistently. I have seen months added to an application for  
          Disability Compensation because of the unit not knowing what to do  
          with the paperwork.*

411       While this would normally not be a problem for the Regular Force member,  
          who would continue to receive his military pay, the same cannot be said for the  
          Reservist who cannot be employed for medical reasons. We find that this is  
          unfair. Therefore,

412       **We recommend that the Canadian Forces take immediate action to  
          enable prompt medical releases for all Reserve Force personnel.**

413 **Conclusions and Recommendations**

414 The role of Reservists has evolved dramatically over the last several years. Unfortunately, policy reform has not kept pace with the evolving role of this essential part of the Canadian Forces. In return for their commitment to train and serve their country, Reservists rightfully expect to receive the best care possible when they are injured or become ill while on duty or away from their home while performing military service.

415 Yet this care is not always forthcoming. The regulatory framework for the provision of medical care to Reservists is deficient and confusing. It needs to be reformed to bring clarity to administrators, caregivers and the chain of command, and consistency and fairness to Reservists.

416 As a general principle, the Canadian Forces has an ethical and legal obligation to provide or to arrange for the provision of health care to injured members of the Canadian Forces, whether they belong to the Regular Force or to the Reserve Force, when the injury or illness is attributable to military service. Even if the injury or illness is not attributable to military service, should members be away from their civilian health care provider due to military duty, the Canadian Forces must look after them beyond emergency care. It is unconscionable that these valuable members, unable to access their own health care providers, have to find their own medical care when there is Canadian Forces care available.

417 The Canadian Forces' priority must be to ensure fairness and equitable treatment for all its members, regardless of component. An important element of fairness is consistency in standards and in their application. If standards are legitimate, they must apply to everyone.

418 There are different standards with respect to periodic health assessments, provision of immunizations and the handling of medical records. This is unfair.

419 Concerning physical fitness, the standard is the same for both Regular Force and Primary Reserve members; however, there are too many unanswered questions about how Reservists will be treated should they injure themselves while training to achieve the standard. These questions must be addressed as part of the implementation of the standard.

420 The differing eligibility of Reservists with regard to dismemberment insurance benefits is an egregious example of inequality of standards. Although exposed to the same risks and liable to incur the same injuries as full-time members, Reservists on Class A service and Class B service of 180 days or less are



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eligible for only 40 percent of the amount that the others receive for the same types of injuries.

421 A special area of concern relates to Supplementary Reservists who are attach posted to the Primary Reserve. They face a highly unfair situation in that they are not eligible for any disability benefit of any sort. Although there has not yet been, to our knowledge, a situation where a supplementary Reservist on attach posting was injured, the negative consequence, were such an injury to take place, would be unacceptable, completely preventable, and must be addressed.

422 Finally, injured Reservists often face delays in accessing those benefits that do exist for them because of delays in obtaining medical releases. This poses a double penalty for Reservists when compared to their Regular Force counterparts: not only is the delay often longer for Reservists, but they are not entitled to pay and allowances in the interim if they are not working, whereas their Regular Force colleagues are paid until released.

423 As a senior medical authority said to one of our investigators: *“In a perfect world, every Reservist, regardless of class, would have the core immunizations, they would have medicals done at the same frequency as the Reg[ular] Force, their medical files would be kept at a supporting base, and there would be clarification on medical entitlements.”* To this our Office would add equitability in terms of treatment for injuries arising from fitness training, equal entitlements to dismemberment benefits, coverage for Supplementary Reservists on attach posting to the Primary Reserve, and efficiency in the processing of medical releases for Reservists.

424 This was the first systemic investigation undertaken by the Office of the Ombudsman that specifically focused on Canada’s Reserve Force. We have made 12 recommendations, which, when implemented, will ensure that all members of Canada’s Reserve Force are treated fairly.

425 **1.** We recommend that:

- 426
- The Canadian Forces develop a new framework governing the entitlement to, and provision of, medical and dental care for the various categories of Reservists;

427

  - The new framework be drafted in clear and user-friendly terms so that it lends itself to fair and consistent interpretation and application;

428

  - The new framework (and all subsequent amendments and clarifications thereto) be widely circulated, and remain accessible to, and easily retrievable for, all concerned; and

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- 429           • This framework be completed within 12 months following the  
                  publication of this report.
- 430           **2.** We recommend that the framework for medical and dental care recognize  
                  the obligation for the Canadian Forces to provide Reservists (whether by  
                  Canadian Forces caregivers or by external health care providers) with the  
                  comprehensive health care they require as a result of illness or injury  
                  attributable to military service.
- 431           **3.** We recommend that the framework for medical and dental care identify the  
                  Canadian Force's responsibility to provide medical and dental care to all  
                  Reservists who need it while serving away from their civilian health care  
                  providers.
- 432           **4.** We recommend that the new framework for medical and dental care  
                  contain a general direction to decision makers that it should be interpreted  
                  and applied in a fair and generous manner and that, in cases where issues of  
                  entitlement are unclear, the decision shall be resolved in favour of the  
                  member.
- 433           **5.** We recommend that, within 12 months following the publication of this  
                  report, the standards for periodic health assessments be applied equally for  
                  Primary Reserve and Regular Force personnel.
- 434           **6.** We recommend that, within 12 months following the publication of this  
                  report, the Canadian Forces:
- 435           • Publish immunization/vaccination requirements that apply to all  
                  military personnel (Regular and Primary Reserve Force) engaged in  
                  domestic operations and training; and
- 436           • Put in place a mechanism for the provision of these  
                  immunizations/vaccinations at public expense to both Primary Reserve  
                  and Regular Force members.
- 437           **7.** We recommend that, within 12 months following the publication of this  
                  report, the Canadian Forces develop a framework to ensure that Reservists  
                  receive fair compensation for lost income and proper medical care when  
                  they suffer injuries as a result of engaging in training activities to attain or  
                  maintain Canadian Forces physical standards.
- 438           **8.** We recommend that the Canadian Forces take immediate action to  
                  maintain and safeguard all Reserve Force health records to the same  
                  standard as the Regular Force.

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- 439     **9.** We recommend that health records follow the member during component transfers and re-enrollments.
- 440     **10.** We recommend that the Accidental Dismemberment Insurance Plan be changed, retroactive to February 13, 2003, to ensure that all Canadian Forces members receive the same compensation for the same injury.
- 441     **11.** We recommend that the Canadian Forces take immediate action to ensure that all Supplementary Reservists who are attach posted to the Primary Reserve receive the same benefits as their counterparts.
- 442     **12.** We recommend that the Canadian Forces take immediate action to enable prompt medical releases for all Reserve Force personnel.

443 **Annex A: QR&O Chapter 34 –Medical  
Services**

444 **Extract from QR&O 34.07 – Entitlement to Medical Care**

445 (4) Subject to paragraphs (5) to (8), medical care shall be provided at public  
expense to a member of:

446 (a) the Regular Force;

447 (b) the Special Force;

448 (c) the Reserve Force;

449 (d) a force of a North Atlantic Treaty Organization State in Canada in  
connection with his official duties, where reciprocal agreements for the  
provision of free medical care are provided for by that State; or

450 (e) any other military force, as directed by the Minister.

451 (5) Unless the Minister otherwise directs, a member of the Canadian Forces or  
of a force of a North Atlantic Treaty State or other military force is not entitled  
to medical care at public expense:

452 (a) beyond the 21<sup>st</sup> day of a period of absence without authority;

453 (b) beyond the date of his release, except as may be provided under the  
*Veterans Treatment Regulations* to a former member of the Canadian  
Forces; or

454 (c) where he has failed to comply with regulations governing the  
provision of medical care, except that the charges for medical care  
obtained may be paid from public funds if subsequent action is taken to  
recover the cost from the member.

455 (6) Subject to paragraph (5), a member of the Reserve Force whose need for  
medical care is attributable to the performance of duty is entitled:

456 (a) for the remaining period of duty to medical care at public expense;  
and

457 (b) after termination of the period of duty to such medical care at public  
expense as the attending physician may consider necessary and as  
authorized by the officer commanding a command.

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458 (7) Subject to paragraph (5), a member of the Reserve Force whose need for  
medical care is not attributable to the performance of his duty and is not as a  
result of his misconduct or imprudence is entitled:

459 (a) where the requirement arises while he is on active service or on  
Class "C" Reserve Service, to medical care in accordance with  
paragraph (6)

460 (b) where the requirement arises when he is on Class "A" or "B"  
Reserve Service, to receive at public expense medical care in whole or  
in part which is not provided for under his provincial health care plan  
until the date upon which the period of duty terminates or the date upon  
which he is returned to his home, whichever is earlier, unless otherwise  
authorized by the Minister; or

461 (c) where the requirement arises while he is on any duty not mentioned  
in subparagraphs (a) and (b) and unless the Minister otherwise directs,  
to medical care in accordance with paragraph (6).

462 (8) A member of the Reserve Service who is not on active service, Class "B"  
Reserve Service or Class "C" Reserve Service and who, in the opinion of the  
officer commanding the command, unreasonably refuses to accept the medical  
care prescribed shall not be granted any further medical care for that specific  
condition, effective the date of refusal.

463

## **Annex B: QR&O Chapter 35 –Dental Services**

### **464 Extract from QR&O 35.01 – Definitions**

465 In this chapter,

466 “comprehensive dental treatment” means the treatment that is required to  
establish and maintain a reasonable degree of masticatory efficiency and  
freedom from pain and that is, in the opinion of the dental officer, necessary  
and available;

467 “restricted dental treatment” means the treatment required in an emergency that  
is, in the opinion of the dental officer, necessary and available for

468 (a) the relief of pain and acute infection, or

469 (b) simple repair of broken dentures, but not including replacement or  
addition of component parts.

### **470 Extract from QR&O 35.04 – Entitlement to Dental Treatment**

471 (2) A member of the Reserve Force on active service, Class “B” Reserve  
Service for a period in excess of six months or Class “C” Reserve Service is  
eligible for comprehensive dental treatment.

472 (3) A member of the Reserve Force:

473 (a) is entitled to restricted dental treatment where the member is on

474 (i) Class “B” Reserve Service for a period not in excess of six  
months, or

475 (ii) Class “A” Reserve Service performing duty or training other  
than at a local headquarters, local parade, local demonstration or  
local exercise; or

476 (b) is entitled, where the member suffers any injury to the teeth  
attributable to the performance of duty, to the treatment that is  
necessary to restore a state of dental fitness comparable to that which  
existed prior to the injury, if such injury is not attributable to the  
member’s own misconduct or imprudence.

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- 477 (4) A member of the Reserve Force who, in the opinion of an officer commanding a command, unreasonably refuses to accept the dental treatment prescribed for the member's injury or disease is not, from the date of the refusal entitled to any further treatment for that injury or disease.