

Court File No: T-160-90

IN THE FEDERAL COURT OF CANADA  
TRIAL DIVISION

B E T W E E N :

**MICHELLE DOUGLAS**

Plaintiff

- and -

**HER MAJESTY THE QUEEN**

Defendant

**ANSWERS TO UNDERTAKINGS ON THE EXAMINATION FOR  
DISCOVERY OF BRIG. GEN. MUNROE (DOULGAS SPECIFIC)  
HELD OCTOBER 26, 1990**

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Page 5, Question 9

- Q. If there had been no S.I.U. investigation instituted, when would Ms. Douglas have received her promotion?
- A. The promotion policy for officers is contained in Canadian Forces Administrative Order 11-6 (CFAO 11-6). Tab 1 is a copy of the edition of CFAO 11-6 that was in effect from 3 December 1982 until 18 August 1988 and that governed Ms. Douglas' promotion to lieutenant.

Ms. Douglas was a Direct Entry Officer (DEO) and was assigned to the Security occupation. The Security occupation forms part of the General Service group of occupations. Thus Annex A of Tab 1 applies to Douglas while Annex B does not.

The SIU investigation of Ms. Douglas did not change the effective date of her promotion to lieutenant. The prerequisites for promotion to lieutenant that applied to Ms. Douglas are contained in paragraph 14 of Annex A to Tab 1. She met those prerequisites on completion of the Basic Security Officers Course on 12 May 1988 (Defendants Book of Documents, Tab 6) and, as her seniority as a second lieutenant dated from 7 December 1986, she was deemed eligible for promotion

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effective 7 December 1987 (paragraph 15 of Annex A to Tab 1 applied). Normally, the promotion message would have been issued within a few weeks of completion of the Basic Security Officers Course. However, Douglas' career manager was ill and the promulgation of her promotion and that of many of her course mates was delayed. Accordingly, the promotion message (Tab 2) was issued on 4 August 1988. At that time, the fact of the SIU investigation was not known to the promotion issuing authorities in National Defence Headquarters and consequently was not a factor either in the effective date of promotion or in the date of issuing the promotion message.

Although the fact of the ongoing SIU investigation was not known to the promotion issuing authorities in National Defence Headquarters, it was known to Ms. Douglas' commanding officer in Toronto. As a result, he withheld approval of her promotion and National Defence Headquarters was so advised by telephone on 12 August 1988 and by message on 18 August 1988 (Tab 3). Subsequently, it was determined that Douglas would be promoted to lieutenant before her release from the Canadian Forces and the executive message for that promotion was issued on 7 July 1989 (Tab 4). That message overrode the "hold" on Douglas' promotion and the effective date of promotion of 7 December 1987 was restored. Ms. Douglas' pay records have been checked and it has been confirmed that her pay was adjusted to the lieutenant rate effective 7 December 1989.

Page 5, Question 12

- Q. How many course mates of Ms. Douglas have been promoted to Captain rank and when did promotion occur.
- A. There were 12 successful graduates, including Ms. Douglas, on the Basic Security Officer Course 8702. Of that number, six (again including Douglas) were DEOs. Of those six, four were promoted to Captain rank effective 1 January 1990 while two (Douglas and one other) have not been promoted to Captain (as of 15 November 1990). None have been promoted to the rank of Major.

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**Page 8, Question 20**

- Q. What is the shortest period of time that one can enter the promotion zone for Captain from Lieutenant?
- A. The shortest period of time that a DEO Security officer (as Douglas was) normally must spend as lieutenant before entering the promotion zone for captain is two years (CFAO 11-6, Tab 1 Annex A, sub-sub-para 20a(1)). The promotion message issued on 4 August 1988 has the following entry: "4.(P) EPZ Capt 07 Dec 89". This entry established the date of promotion eligibility to captain for Ms. Douglas (ie, EPZ = enter promotion zone). However, it did not guarantee promotion on that date. In addition, it should be noted that provision is made for accelerated promotion in exceptional cases (Tab 1, paras. 17 to 19 inclusive). In such cases, an officer is eligible for accelerated promotion after one year of service in the officer's substantive rank. In Douglas' case, that could have been as early as 7 December 1988.

**Page 10, Question 28**

- Q. When, in the best of circumstances and given the reality of when vacancies were available, could Ms. Douglas have been expected to be promoted to the rank of Captain?
- A. In the best of circumstances, given all consideration, Ms. Douglas could have been expected to be promoted to the rank of captain at least as quickly as her peers with similar seniority. Had she remained in the Canadian Forces, that would have been effective 1 January 1990 (see response to page 5, question 12).

**Page 12, Question 36**

- Q. What are the various promotion zones for Military Police?

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- A. CFAO 11-6 was amended and reissued on 19 August 1988 (copy at Tab 5). As you will note, Annex C was reissued on 9 December 1988 but this is not significant to this inquiry.

Apart from accelerated promotion, which is extremely rare, a Security officer meets time-in rank requirements for promotion to the next rank as follows:

- a. to captain - after two years seniority as a lieutenant;
- b. to major - after four years seniority as a captain;
- c. to lieutenant-colonel - after four years seniority as a major;
- d. to colonel - after three years seniority as a lieutenant-colonel; and
- e. to brigadier-general - no time qualification. In practical terms, not eligible until 1 January following year of promotion to colonel.

The policy governing seniority is contained in para. 24 of Annex A to Tab 5.

**Page 12, Question 37**

- Q. Is the Special Investigation Unit part of the Military Police?
- A. Rather than say that the Special Investigation Unit is part of the Military Police, it would be more correct to say that the Special Investigation Unit is a unit of the Canadian Forces and is staffed primarily by members of the Security and Military Police occupations.

**Page 16, Question 49**

- Q. In 1988 or 1989, would a person who did not declare him or herself to be a homosexual but was suspected of being a homosexual necessarily be the subject of

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an SIU investigation?

- A. Not necessarily. Canadian Forces Administrative Order 19-20 (Defendant's Book of documents Tab 46) required a commanding officer to investigate any report that a member of the Canadian Forces is a homosexual. That investigation would not necessarily involve the Special Investigation Unit. However, if the investigation tended to substantiate the report, the commanding officer was obliged to call in the Special Investigation Unit to investigate further.

**Page 16, Question 51**

Q. Produce CFAO 22-3 and 22-4.

- A. Canadian Forces Administrative Order 22-3 (CFAO 22-3) was amended in 1989. The version that was in effect in 1988 and the revised version, issued on 28 April 1989, are at Tabs 6 and 7 respectively. CFAO 22-4 is at Tab 8.

**Page 17, Question 52**

Q. What activities was the SIU actually engaged in during 1988?

- A. The estimated time allocation of SIU personnel resources for activities in 1988 was as follows:

a.	Security Clearance Field Investigations	69%
b.	Security Intelligence Liaison	9%
c.	Surveillance Operations	6%
d.	Mandatory Security Investigations	5%

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e.	Polygraph Examinations	4%
f.	Criminal Investigations	3%
g.	Investigations into Sexual Behaviour	2%
h.	Counter Human Intelligence Support	1%
i.	Briefings and Debriefings, and	1%
j.	Close Personal Protection	1%

Total (some activities reported under more than one heading.  
Administrative activity is not included in the above.) 101%

**Page 18, Questions 57 and 58**

- Q. Does the defendant admit the accuracy of the statement at page 46 of the report of the External Review of the Canadian Forces Special Investigation Unit?
- A. Page 46 of the report of the External Review of the Canadian Forces Special Investigation Unit contains the statement that "Homosexuality and sexual deviation cases constituted the largest category of investigations." That statement is misleading if taken out of context. To provide greater clarity, it would be appropriate to say:

"In 1988 and 1989, homosexuality and sexual deviation cases constituted the largest category of investigations reported under the military police investigation case file index. That index includes, as a general rule, all specifically assigned investigations (see CFAO 22-3) but does not include security clearance investigations which by far account for the largest commitment of SIU personnel resources."

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Page 32, Question 73

- Q. Advise whether the notes marked as Exhibit No. 8 are accurate and represent the notes of M.W.O. Mossman's contact with 2nd Lt. Douglas in December, 1988 and, if they are inaccurate, in what way.
- A. A photocopy of 42 pages of notes and forms, marked as Exhibit 8, accompanied the transcript. Pages 2 to 7 inclusive are confirmed as notes made by Master Warrant Officer Mossman in December 1988. The remaining pages were completed by an individual or individuals other than Master Warrant Officer Mossman.

Page 24, Questions 75 and 76

- Q. Does the Defendant admit that Ms. Douglas was taken to the Constellation Hotel, having been told that she was going to be going to Ottawa on June 27, 1988?
- A. The Defendant admits that Ms. Douglas was taken to the Constellation Hotel on 27 June 1988 but does not admit that she was told that she was going to be going to Ottawa.

Page 24, Questions 77 and 78

- Q. If this is disputed, in what way and on what basis?
- A. The Detachment Commander, Central Detachment of the SIU, accompanied Ms. Douglas to the Constellation Hotel. He denies that he told Ms. Douglas that they were going to Ottawa. However, the Defendant does not have any basis to believe that Ms. Douglas knew that she was going to be taken for an SIU examination on 27 June 1988.

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Page 25, Questions 79 and 80

- Q. Does the Defendant dispute the allegation that when Ms. Douglas asked whether or not the interview was being taped, she was told it was not but, in fact, it was taped.
- A. The Defendant does not dispute this allegation.

Pages 28 and 29, Questions 91 to 95

- Q. Does the SIU make a distinction between interviews and interrogations and, if so, how does it make the distinction? Provide any written documentation which would be supplied to SIU personnel having to do with how the distinction is made and how interviews, as opposed to interrogations, are to be conducted (subject to any claim of privilege).
- A. The SIU does not formally distinguish between interviews and interrogations. The terms are not defined in the SIU standing operating procedures. Nevertheless, there is an understanding that there is a difference between the two. Although there is no SIU doctrine on the subject, interviews are seen as being non-confrontational, fact gathering activities while an interrogation is viewed as confrontational and may involve challenging an individual about the accuracy of statements, the completeness of responses, etc. It is noted that Annex E to CFAO 22-4 (Tab 8), which applies to specified military police but does not apply to members of the SIU, appears to distinguish between interviews and interrogations (sub-paras 1c and 1d) although the terms are not defined.

Pages 30 to 33, Questions 100 to 107

- Q. Does the Defendant dispute that upon admitting that she was a lesbian, Ms. Douglas had any authority to act as a peace officer removed, that she had to

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surrender certain documents, and that she was no longer in a position to carry out the normal duties of a member of the Military Police?

- A. The attached extract (Tab 9) from Security Orders for the Canadian Forces, Military Police and Security Procedures, prescribes the policy for the issue, control and withdrawal of specified military police credentials. In particular, attention is drawn to sub-para 2a, para 3 and sub-para 10d of that policy. Ms. Douglas' military police credentials were withdrawn as a result of her posting to the position of Base Protocol Officer, a non-police position, at CFB Toronto. As a result of that posting, she no longer qualified for their retention within the intent of sub-para 2a. However, the withdrawal of these credentials had no bearing on her occupation assignment and she remained a member of the Security occupation until her release from the Canadian Forces.

**Page 40, Question 142**

- Q. Is it abnormal for a Career Manager to make a recommendation in a report to a Special Career Review Board?
- A. While a Career Manager is not necessarily required to make a recommendation to a Special Career Review Board, it is not abnormal or unusual for a Career Manager to do so.

**Page 42, Question 156**

- Q. Correlate the flag numbers that appear in Tab no. 25 of Exhibit No. 1 (Defendant's Book of Documents) to the tab numbers of Exhibit No. 1.
- A. The references are as follows:

<u>Flag 1</u>	Memorandum dated 26 May 1988 from CO SIU	Tab 7
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<u>Flag 2</u>	Memorandum dated 12 August 1988 from DPCO	Tab 12
<u>Flag 3</u>	Letter dated 7 September 1988 from CO SIU	Tab 13
<u>Flag 4</u>	Memorandum dated 13 September 1988 from DG Secur	Tab 14
<u>Flag 5</u>	Memorandum dated 11 August 1988 from the A/BSurg, CFB Toronto	Tab 10
<u>Flag 6</u>	Letter dated 28 September 1988 from Base Commander, CFB Toronto	Tab 16
<u>Flag 7</u>	Letter dated 19 December 1988 from the DCOS Pers at Air Command Headquarters	Tab 19
<u>Flag 8</u>	Letter dated 10 January 1989 from CO SIU	Tab 22
<u>Flag 9</u>	Memorandum dated 11 January 1989 from DG Secur	Tab 23
<u>Flag 10 -13</u>	Letters of appreciation not contained in the book of documents and not yet located despite best efforts	
<u>Flag 14-16</u>	Letters of appreciation not contained in the book of documents but enclosed herewith:  a. Tab 10 - letter dated 22 September 1988 b. Tab 11 - undated letter from Major General Webb c. Tab 12 - letter dated 14 October 1988.	

The letters of appreciation have not been located (flags 10-13 inclusive) will be forwarded if, as a result of continuing efforts, they can be located.

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**Page 43, Question 159**

- Q. Transcript indicates spelling of MacLaren.
- A. The proper spelling/capitalization for Lieutenant-Colonel Maclaren's last name is Maclaren, rather than MacLaren.

**Pages 43 and 47, Question 160 and Response 168**

- Q. Provide any other factors which impacted upon the decision that taking disciplinary action was not appropriate in Ms. Douglas' case.
- A. No additional factors have been identified.

**Page 50, Question 178 and Page 51, Question 186**

- Q. Provide current salary levels for the members of the Military Police, and an indication of what the annual pay increase would be for officers in the Military Police.
- A. Rates of pay for members of the Canadian Forces are contained in Queen's Regulations and Orders for the Canadian Forces (QR&O). The three attached QR&O articles (Tab 13 - QR&O 204.1114; Tab 14 - QR&O 204.21; Tab 15 - QR&O 204.205) provide the rates of pay, at various rank levels, applicable to direct entry officers (as Ms. Douglas was) including those employed in the Security occupation.

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**Page 50, Question 180**

- Q. Provide particulars of any housing allowances that are available to officers in the Military Police.
- A. Accommodation assistance allowance (AAA) is payable to members of the Canadian Forces in some locations under specified conditions. The rate varies by location depending on the cost of accommodation in that area. In the case of Toronto, effective 25 August 1988, the rate for a single officer without dependants was \$188 per month. On 1 September 1989, the rate was increased to \$337 per month and remains at that level today. AAA is a taxable benefit.

**Page 52, Question 188**

- Q. Advise if there are any other clothing allowances provided.
- A. All Regular Force members (as Ms. Douglas was) of the Canadian Forces receive a monthly clothing upkeep allowance for the purpose of maintaining basic permanent kit clothing. The rates in effect during October 1990 were \$18.15/month for females and \$15.20/month for males.

Provision is also made in regulations that a member posted to a position designated by the Minister of National Defence may be paid civilian clothing allowance in lieu of clothing upkeep allowance. A number of SIU positions are so designated. In October 1990 civilian clothing allowance was provided to eligible members at the rate of \$43.90/month.

**Page 53, Question 191**

- Q. Advise as to vacation entitlement.

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- A. There is a variety of leave provisions that apply to members of the Canadian Forces (annual leave, sick leave, maternity leave, retirement leave, etc.). The annual leave provisions provide what amounts to vacation entitlements. The annual leave entitlement is 20 working days for a member who has less than five years of service in the Regular Force (as in the case of Ms. Douglas) and 25 working days for those with more than five years service.

**Page 55, Question 201**

- Q. Advise if there is entertainment provided and if it is either free or subsidized.
- A. Some entertainment is available on most military bases. The size, location and role of the base all have an impact on the amount, its quality and the cost to the member. Much of this entertainment is on a "user pay" system. In the case of CFB Toronto, there is no base theatre (it was closed in 1988) and virtually all of the entertainment available to members is provided by the messes (see following response).

**Page 56, Question 209**

- Q. To advise if monthly mess dues of \$18.00 is inaccurate.
- A. In July 1989, the mess dues for an officer at CFB Toronto were \$18.00/month. In March 1990, those dues were increased to \$20.00/month. The components of those dues are as follows:
- |    |   |         |
|----|---|---------|
| a. | General assessment (contributes to the general operation and maintenance of the club) | \$10.25 |
| b. | Entertainment (subsidizes the cost of mess-provided entertainment)                    | 8.75    |
| c. | Sports (maintenance of mess-owned equipment); and,                                    | .50     |

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d.	Testimonial (purchase of mess gifts)	.50
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	TOTAL	\$20.00

These monthly mess dues are compulsory and must be paid whether or not the member uses the facility.

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