COURT MARTIAL

Citation: *R. v. Therrien*, 2025 CM 7011

Date: 20251003
Docket: 202515

Standing Court Martial

Halifax Courtroom, Suite 505
Halifax, Nova Scotia, Canada

Between:

His Majesty the King

- and -

Lieutenant-Colonel Y. Therrien, Offender

Before: Colonel S.S. Strickey, M.J.

Restriction on publication: Pursuant to paragraph 183.5(4)(b) and section 183.6 of the *National Defence Act*, the Court directs that any information that could disclose the identity of the persons described in these proceedings as the complainants, including the persons referred to in the charge sheet as "J.A." and "L.P.", shall not be published in any document or broadcast or transmitted in any way.

REASONS FOR SENTENCE

(Orally)

Introduction

[1] The Court has accepted and recorded Lieutenant-Colonel (LCol) Therrien's plea of guilty in respect of the two charges on the charge sheet. The Court therefore finds LCol Therrien guilty of the following charges:

"FIRST CHARGE Section 129 *National Defence Act*	**AN OFFENCE PUNISHABLE UNDER SECTION 129 OF THE *NATIONAL DEFENCE ACT*, THAT IS TO SAY, AN**

ACT TO THE PREJUDICE OF GOOD ORDER AND DISCIPLINE

Particulars: In that he, in July 2013, at or near Debert, province of Nova Scotia, did cause L.P. to be confined contrary to Cadet Administrative Training Order 15-22.

SECOND CHARGE
Section 129
National Defence Act

AN OFFENCE PUNISHABLE UNDER SECTION 129 OF *THE NATIONAL DEFENCE ACT*, THAT IS TO SAY, AN ACT TO THE PREJUDICE OF GOOD ORDER AND DISCIPLINE

Particulars: In that he, in July 2013, at or near Debert, province of Nova Scotia, did cause J.A. to be confined contrary to Cadet Administrative Training Order 15-22."

[2] Having accepted and recorded the plea of guilty with respect to these charges, the Court must now determine and pass sentence.

Joint submission made to the Court

[3] The prosecution and defence counsel have made a joint submission to the Court and recommend that I impose a sentence of a severe reprimand and a fine in the amount of $2,500, payable within thirty days.

[4] As noted by Pelletier M.J. in *R. v. White*, 2024 CM 4002, a joint submission on sentence severely limits the Court's "discretion in the determination of an appropriate sentence." The Supreme Court of Canada (SCC) in the case of *R. v. Anthony-Cook*, 2016 SCC 43 at paragraph 32 has stated that "a trial judge should not depart from a joint submission on sentence unless the proposed sentence would bring the administration of justice into disrepute or is otherwise contrary to the public interest."

[5] The now-Chief Military Judge in the 2023 court martial of *R. v. Mentel*, 2023 CM 5003 at paragraph 11 succinctly outlines the benefits of a joint submission for the accused, the participants of the court martial, the unit and the military justice system. In sum, they save resources and time, provide certainty for an accused while saving the witnesses the emotional cost of participating at trial.

[6] In addition, the Chief Military Judge stated that when the Court is considering a joint submission, trial judges consider that counsel were mindful of the statutory sentencing principles when agreeing on a joint submission. This includes that counsel took into consideration all the relevant facts when mutually agreeing upon an appropriate sentence. Submissions by counsel should provide confirmation that they

did in fact consider critical aspects of the case, including aggravating factors and the offender's personal situation (*Mentel* at paragraph 12).

[7] Therefore, it is with these considerations in mind that the Court will move forward with sentencing.

Purpose of sentencing in the military justice system

[8] As noted by the SCC in *R. v. Edwards*, 2024 SCC 15 at paragraph 59 citing an earlier SCC decision in *R. v. Stillman*, 2019 SCC 40, "Canada's separate system of military justice is designed to 'foster discipline, efficiency, and morale in the military'". This purpose is codified through section 55 of the *National Defence Act* (*NDA*). Similarly, the purposes and principles of sentencing in the military justice system differ from that of the civilian justice system as noted at subsection 203.1(1) of the *NDA* that states "[t]he fundamental purpose of sentencing is to maintain the discipline, efficiency and morale of the Canadian Forces."

[9] These fundamental purposes of sentencing are achieved by imposing a just punishment that takes into account one or more of the enumerated objectives outlined at subsection 203.1(2) of the *NDA* that include such things as "to promote a habit of obedience to lawful commands and orders" (paragraph 203.1(2)(a)), "to maintain public trust in the Canadian Forces as a disciplined armed force" (paragraph 203.1(2)(b)) and "to denounce unlawful conduct and the harm done to victims or to the community that is caused by unlawful conduct" (paragraph 203.1(2)(c)), among others. Section 203.2 of the *NDA* outlines the fundamental principle of sentencing that "[a] sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender".

[10] There are a number of other sentencing principles stated at *NDA* section 203.3 that include "a sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances" (paragraph 203.3(b)) and that "a sentence should be the least severe sentence required to maintain the discipline, efficiency and morale of the Canadian Forces" (paragraph 203.3(d)).

[11] In this case, even when a joint submission is being made, the Court imposing punishment should ensure, at a minimum, that the circumstances of the offence, the offender and the joint submission are considered and outlined in a sentencing decision that may not be required in the civilian criminal justice system (see *R. v. Gillis*, 2022 CM 4019 paragraph 6). Taken globally, I have considered all the factors outlined at Division 7.1 of the *NDA* in coming to my sentencing decision today.

Matters considered

[12] In this case, the prosecutor read a Statement of Circumstances which was formally admitted as accurate by LCol Therrien. It was entered in evidence as an exhibit, along with other documents provided by the prosecution as required at *Queen's Regulations and Orders for the Canadian Forces* paragraph 112.51(2).

During the court martial, the prosecution entered two Victim Impact Statements (VIS): one from the victim, J.A, and the other from the victim, L.P. The prosecutor read J.A's statement while L.P. read their statement in Court.

[13] During the sentencing hearing, defence counsel requested that the Court redact certain statements from L.P.'s VIS. A *voir dire* was held, and, in summary, I denied the request. To that end, I have considered L.P.'s statement in light of *NDA* subsection 203.7(5) that states the court martial shall consider the portions of the statement that it considers relevant to the determination referred to in subsection 203.6(1) and disregard any other portion. Further, the prosecution indicated that LCol Therrien's unit declined to submit a military impact statement referred to in subsection 203.71(1) of the *NDA.*

[14] For its part, defence counsel produced several documents for the Court to consider including LCol Therrien's previous Performance Evaluation Reports (PERs), letters of appreciation, commendations and awards.

[15] In addition to this evidence, counsel then made submissions to support their position on sentence based on the facts and considerations relevant to this case, to assist the Court to adequately apply the purposes and principles of sentencing to the circumstances of both the individual offender and the offence committed.

The circumstances of the offence

[16] The Statement of Circumstances, information in the documents entered as exhibits, and submissions of counsel reveal the following circumstances relevant to the offence:

> "1. The alleged incidents occurred during the summer of 2013 at the Debert Cadet Flying Training Centre (CFTC) in Nova Scotia, which reported to the Regional Cadet Support Unit (Atlantic) (RCSU(A)). LCol (Ret'd) Therrien was the Commanding Officer (CO) of the Debert CFTC at the time of the incidents. During LCol (Ret'd) Therrien's time as CO, the following incidents occurred under his command:
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> a. In mid to late July 2013, L.P, an 18-year-old staff cadet at the time, was subjected to disciplinary measures for minor infractions like being outside her room past curfew, improperly wearing her headdress, not speaking to staff appropriately and for having snacks and her phone in her room. She was "confined to barracks" twice.
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> b. The first punishment involved her working half days on the flight line and then spending the remaining six to seven hours seated at a desk outside the duty office. This disciplinary action lasted until July 26, 2013.

c. On July 26, 201 3, J.A., a 16-year-old cadet was approached by an older Duty Officer (DO) to have his electronics seized. He was not told why he was being disciplined, although he assumed it was for talking back to a senior cadet the day before. On his way to the repurposed dorm room used as a storage room, in which he was to be confined, he was allowed to take books and call his parents but was not permitted to explain why he was losing privileges. He spent one day confined to the room, allowed only to leave for the washroom, and was escorted for lunch and dinner.

d. On July 26, 2013, a Deputy Flight Commander (D Flt Cmdr), a Lt, was surprised to learn that J.A. had been sent to the room for discipline. That evening, the D Flt Cmdr requested an urgent meeting about the cadet's disciplinary action.

e. The next day, on July 27, 2013, LCol (Ret'd) Therrien held a staff meeting to discuss cadet discipline, referring to the room as the "penalty box". When the D Flt Cmdr brought up the CATO, LCol (Ret'd) Therrien dismissed their relevance, stating they only applied to serious matters, which he could rewrite when he returned to Ottawa.

f. On July 27, 2013, L.P. was disciplined a second time. The Camp Sergeant Major, an MWO told her she would be "confined to barracks" for three days. During this time, she was confined to the repurposed storage room from 7:30 AM to 10:30 PM, with no reading materials or items to pass time. She was taken to meals outside regular hours to avoid interaction with other cadets and was not allowed to contact her parents.

g. The room was a repurposed dorm room located about 15 feet from the duty office, containing a desk, a chair, a window, a pile of dirty linens, cleaning supplies, sports equipment and a bed covered in items. The door was not locked nor completely shut but L.P. did not feel free to leave, though she could use the bathroom. The room was eventually cleaned out.

h. One day L.P. did not show up to work because she was in the room. When other officers went to check on her, they found L.P. upset, crying, and unaware of why she was being punished.

i. The Cadet Administrative & Training Order 15-22 (CATO) spells out the procedures and available options for disciplining cadets. The disciplinary actions carried out under LCol Therrien's command were in contrast with the discipline authority outlined in the CATOs. "Confining Cadet to barracks" is not listed as a means of discipline in CATO 15-22 nor does it fall under the spirit of the CATO.

j. The CATO was pinned outside the duty office and LCol (Ret'd) Therrien issued Standing Orders which contained direction that everyone comply with orders, including the CATOs."

The circumstances of the offender

[17] The documents examined by the Court and the submissions of counsel reveal the following circumstances relevant to the offender:

(a) LCol Therrien is sixty-four years old;

(b) LCol Therrien joined the Cadet Program in 1973. He progressed through all levels of the Air Cadet Program;

(c) LCol Therrien joined the Canadian Armed Forces (CAF) in 1978 as a reservist until 1981 when he joined the regular force. He released in 1991 and rejoined the regular force in 1997. He released in 2014 after a total of thirty years of service;

(d) LCol Therrien is a graduate of Royal Military College of Canada, the Canadian Forces College, was a fighter pilot and, in 2013, assumed command of the Debert CFTC; and

(e) LCol Therrien has no conduct sheet nor any convictions by a civil court that appear on his conduct sheet.

[18] The Court has reviewed the evidence submitted by defence counsel, in particular, evidence related to his PERs and commendations. Over his thirty-year career, LCol Therrien has received very positive PERs and received numerous awards and letters of commendation including: Officer of the Year Commendation from the Air Cadet League of Canada (2014) along with letters of appreciation from military and civilian leaders as it related to his work with cadets. LCol Therrien is presently employed as the Senior Advisor with CAE Inc. for a new military contract to develop the Royal Canadian Air Force (RCAF) Future Aircrew Training program. He has been in this position since 2019 and requires a North Atlantic Treaty Organization (NATO) security clearance to hold his position.

[19] Finally, LCol Therrien expressed to the Court his regret and failure in his duties as a commanding officer (CO) in this case. He has reflected on the incident and acknowledged that his conduct was not befitting of a senior officer. He also acknowledged the negative feelings that the victims J.A. and L.P. expressed to the Court.

Seriousness of the offence

[20] The Court has considered the objective gravity of the offence in this case. Section 129 of the *NDA*, carries a maximum punishment of dismissal with disgrace from His Majesty's service. It is therefore an objectively serious offence that is directly linked to the requirement of maintaining a disciplined armed force.

[21] There are a broad range of circumstances that can lead to offences under section 129 of the *NDA*. In this case, the circumstances of the behaviour are significant. A sixteen-year-old and eighteen-year-old were subject to a pseudo punishment of "confinement to barracks"; a punishment that did not exist in CATO 15-22. The "room" where the two victims were confined was described in the Agreed Statement of Circumstances as a repurposed dorm room used as a storage room. J.A, who was sixteen years old at the time, spent one day confined to the room, only allowed to go to the washroom and was escorted to go for lunch and dinner. L.P., who was eighteen years old at the time, was confined twice. The first punishment was spent six to seven hours at a desk outside the duty office. For the second punishment they were confined to a room from 7:30 a.m. to 10:30 p.m. As admitted by the offender in the Agreed Statement of Circumstances, when approached by the D Flt Cmdr about their concerns with this punishment, LCol Therrien, at the time the CO of the Debert CFTC, dismissed incidents related to cadet discipline referring to the room as the "penalty box".

[22] Not surprisingly, this incident had a significant impact on the victims, J.A and L.P. J.A. submitted a written statement. L.P. testified before the Court and was understandably emotional. The incident affected J.A. for the remainder of his cadet career. L.P. outlined in detail the negative impact the offence had upon them. I have taken both these statements into account and sincerely thank J.A. and L.P. for their courage in submitting these statements to the Court.

Sentencing objectives considered in this case

[23] In the circumstances of this case, I agree with the prosecution that the focus be placed on the objectives of general deterrence and denunciation in sentencing the offender.

[24] In terms of the main purpose of sentencing at section 203.1 of the *NDA*, namely the maintenance of "discipline, efficiency and morale of the Canadian Forces," the sentence proposed must be sufficient to denounce LCol Therrien's conduct in the

military community and deter others from such behaviour (see *NDA* paragraphs 203.1(2)(a) to (c)). In addition, the Court is mindful of other sentencing principles that apply in this particular case such as *NDA* subparagraph 203.3(a)(iv), "a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender, and aggravating circumstances include, but are not restricted to evidence establishing that the offender, in committing the offence, abused a person under the age of 18 years" and *NDA* section 203.4 "When a court martial imposes a sentence for an offence that involved the abuse of a person under the age of 18 years, it shall give primary consideration to the objectives of denunciation and deterrence of such conduct".

[25] As noted by the prosecution in the joint sentencing submission, the recommendation of a sentence of a severe reprimand and a fine in the amount of $2,500 would serve to demonstrate that the military justice system denounces such conduct and would leave no doubt should CAF members conduct themselves in a similar fashion, that such action would be punished.

Indirect consequences to be taken into account

[26] While defence counsel recommended to the Court that rehabilitation be considered as a sentencing objective, I respectfully disagree. LCol Therrien has been released from the CAF since 2014 and has been in full-time employment as a Senior Advisor with CAE Inc since 2019. There was no evidence put before the Court that suggesting the jointly recommended sentence of a severe reprimand and a fine would impact any rehabilitative efforts by the offender.

[27] The Court concurs with defence counsel that it must be mindful of any indirect consequences of the sentence (*NDA* paragraph 203.3(e)). In this case, a punishment that imposes a criminal record would significantly impact LCol Therrien's civilian employment, as he requires a NATO security clearance. The joint submission before the Court would not lead to a criminal record and allow him to continue his civilian employment as the primary wage-earner in his family.

Aggravating and mitigating factors

[28] The circumstances of the offence reveal the following aggravating factors:

(a) the age of the victims at the time of the offence. J.A. was sixteen years old at the time of the offence and L.P. was eighteen years old. As evidenced in their respective VIS, the offence had a negative impact on both J.A. and L.P. L.P. was particularly poignant to the Court of how the "confinement" had a lasting impact upon them. I note this factor, as it relates to the victim J.A., encapsulates a statutory aggravating factor at *NDA* subparagraph 203.3(a)(iv) that "the offender, in committing the offence abused a person under the age of 18 years"; and

(b) the offender, in committing the offence, abused their rank or other position of trust or authority. This aggravating factor is codified in the *NDA* at subparagraph 203.3(a)(i). The offender was a lieutenant-colonel at the time of the offence and had previously served for numerous years in the Reserve and Regular Force. As a lieutenant-colonel and the CO, he possessed significant authority over several personnel, including the victims. His lapse in judgement demonstrates that he failed in his duties as a leader in the CAF and betrayed the trust of his chain of command and subordinates. As it specifically relates to those entrusted with leadership over cadets, I adopt the rationale of Deschenes M.J.(as she then was) in *R. v. Munro,* 2024 CM 5015 at paragraph 12 and Dutil C.M.J. in *R. v. Gagnon*, 2005 CM 34 at paragraph 8, that LCol Therrien had the duty and responsibility to guide young cadets towards adult life by promoting an environment imbued with a sense of civic responsibility and respect for others to prepare them, amongst other things, to become responsible citizens.

[29] That said, the Court acknowledges the following mitigating factors:

(a) LCol Therrien's guilty plea today avoids the expense and energy of running a trial and demonstrates that he is taking responsibility for his actions in public, in the presence of members of his former unit and the broader military community;

(b) the absence of a criminal record and conduct sheet revealing precedents of similar misbehaviour;

(c) outside of circumstances leading to this court martial, LCol Therrien has a lengthy record of service to the CAF and the Cadet Program. He served for thirty years in various positions and received numerous awards and commendations for his work within the Cadet Program;

(d) LCol Therrien released in 2014 and has been a productive civilian member of society since that time. There is evidence before the Court that he has been employed in a Senior Advisor role with CAE Inc. since 2019; and

(e) as noted by the prosecution and defence counsel during their respective submissions, this incident was out of character for the offender.

Assessing the joint submission

Parity

[30] Turning now to the parity principle, the Court examined precedents for similar offences to determine whether the joint submission is like sentences imposed on

similar offenders. Sentences imposed by military tribunals in similar cases are useful to appreciate the kind of punishment that would be appropriate in this case.

[31] In the context of submissions to demonstrate that the joint submission was within a range of similar sentences for similar offences, the prosecution and defence counsel brought several cases to my attention, showing that the proposed sentence fits in an acceptable range for similar cases, although no case is the same. The Court has considered the following cases:

(a) *R. v. Kearney*, 2025 CM 6003, Colonel (Col) Kearney pleaded guilty to one charge under section 129 of the *NDA*. Col Kearney made remarks that might reflect discredit on the Canadian Armed Forces as he made crude sexualized remarks in reference to a British Brigadier General. In a joint submission on sentence, the Court considered amongst the aggravating factors his senior rank and position along with the fact that the nature of his comment was gender-based, crude and offensive. The Court identified as mitigating factors his significant and lengthy service to the CAF (including multiple deployments and international postings), the absence of a conduct sheet or criminal record, the guilty plea and his apology. The Court sentenced Col Kearney to a severe reprimand and a fine in the amount of $3,000;

(b) *R. v. Scott*, 2018 CM 2034, Sergeant (Sgt) Scott was found guilty of three charges contrary to section 129 of the *NDA*. All three charges were related to harassment of junior members with some of the comments sexualized in nature. Following a contested sentencing hearing, the Court considered aggravating factors including the negative impact upon at least one victim and the unit; that Sgt Scott was in a position of authority at a leadership academy and the nature of the comments. In terms of mitigating factors, the Court listed, among other things, that Sgt Scott had no conduct sheet or criminal record, that he successfully completed remedial administrative action and was remorseful. The Court sentenced Sgt Scott to a severe reprimand;

(c) *R. v. Munro*, 2024 CM 5015, Captain (Capt) Munro pleaded guilty to two charges contrary to section 129 of the *NDA* for harassing two cadets who were under the age of eighteen at the time of the incidents. Capt Munro was a platoon commander in the Canadian Army Cadet Corps. In one incident, the offender grabbed a cadet with both hands and put pressure on his eyes with his thumbs. In the second incident, the offender came up behind a cadet and placed a white cord around her neck with enough force to bring her to the ground. Following a joint submission on sentence, the Court found as aggravating factors that the offender was an officer, platoon commander and the only adult supervisor for the cadets. He exploited his privileged position by undermining or abusing the trust that was placed on him not only by the

CAF but by the parents who entrusted the safety and education of their children into his hands. In addition, the Court found that the young ages of the victims was an aggravating factor along with the physical and emotional impact on one of the victims; who read a VIS in court. In mitigation, the Court considered the guilty plea and the fact that he was a first-time offender. The Court sentenced Capt Munro to a reprimand and a fine in the amount of $1,750;

(d) *R. v. Gagnon*, 2005 CM 34, Capt Gagnon pleaded guilty to one charge contrary to paragraph 117(f) and two charges contrary to section 129 of the *NDA*. Capt Gagnon was a reserve force officer for the Cadet Instructor Cadre holding a position as Commander. In relation to the two section 129 charges, he harassed one cadet contrary to CATO 13-24 and consumed alcoholic beverages in direct contact with cadets, contrary to CATO 13-23. The Court considered as an aggravating factor that the offender was a commanding officer of a cadet corps. He had the duty and responsibility to promote an environment for teenage youth to become responsible young citizens. The Court noted in mitigation the offender's guilty plea, his service record and time elapsed since the commission of the offence. The Court sentenced Capt Gagnon to a severe reprimand and a fine in the amount of $1,200; and

(e) *R v. Havas*, 2022 CM 2001, Sub-Lieutenant (SLt) Havas pleaded guilty to one charge contrary to section 129 of the *NDA* in that he breached the Cadet Training Centre Adult Staff Code of Conduct. Among other things, he engaged in inappropriate text messages to a cadet staff member that he supervised. Following a joint submission on sentence, the Court noted as an aggravating factor the offender's rank and position of authority. While the victim was on staff and not a child or youth, there was an inherent power imbalance. In mitigation, the Court cited the offender's guilty plea, his sincere remorse and the fact that he was a first-time offender. The Court sentenced SLt Havas to a severe reprimand and a fine in the amount of $2,000.

[32] During the sentencing submission, I queried prosecution if the senior rank and authority of LCol Therrien was a factor considered in the joint submission given the cases cited by the prosecution and defence included offenders that were captains or below. I brought his attention to the comments of the Chief Military Judge at paragraph 28 in the *Munro* decision where she stated:

> Capt Munro, I find that your position of trust be a significant aggravating factor. Your conduct towards young cadets was despicable. But for your guilty plea, steps to better yourself and release from the CAF, I believe that a reduction in rank may have been a proper punishment. That said, while at the lower end of the range, I find that a reasonable person aware of the circumstances would expect you to receive a sentence which includes disapprobation for the failure in discipline involved. The sentence being proposed composed of the punishment of a reprimand and a fine in the amount of $1,750 is aligned with those expectations.

[33] As explained by the prosecution, when considering a myriad of factors including the applicable caselaw, the proposed sentence before the Court is fair and within the appropriate sentencing range while satisfying the sentencing principles of general deterrence and denunciation. I agree.

[34] Ultimately, the issue for the Court to assess is not whether I agree with the joint submission being proposed or whether the Court could render a more appropriate sentence. As stated earlier, the Court may depart from the joint submission of counsel only if I consider that the proposed sentence would bring the administration of military justice into disrepute or would otherwise be contrary to the public interest. The SCC has stated this in an undeniably high threshold where rejecting a joint submission would occur only when it is "so unhinged from the circumstances of the offence and the offender that its acceptance would lead reasonable and informed persons, aware of all the relevant circumstances […] that the proper functioning of the justice system had broken down" (*Anthony Cook* at paragraph 34). That is not the case before the Court.

[35] As it relates to the punishment of a severe reprimand, counsel referred the Court to the case of *Scott*. In that case, Sukstorf M.J. (as she then was) provided some useful context at paragraph 40:

> I have considered the prosecution's recommendation of a severe reprimand. A severe reprimand is higher on the scale of punishments than a fine as is intended to stand out as a blemish on the career record of an offender. It sends a message that Sergeant Scott engaged in conduct that resulted, albeit temporarily, in a loss in confidence by his chain of command.

[36] The Court Martial Appeal Court of Canada in *R. v. Meeks*, 2024 CMAC 9 recently stated that the *NDA* provisions including the Code of Service Discipline "apply to someone discharged from the military for conduct that occurred when they where serving" (see paragraph 41).

[37] In terms of the punishment of a severe reprimand for released offenders, I adopt the rationale of Gibson M.J. (as he then was) at paragraph 18 of *R. v. McKenzie* 2014 CM 2017 where he stated:

> One consideration that should be addressed is whether, in circumstances such as the present case where the offender has been released from the Canadian Forces prior to trial, the punishment of severe reprimand retains any meaning. I would agree in this respect with the observation made by the Chief Military Judge, Colonel Dutil, in *R. v. Goulet*, 2010 CM 1017 at paragraph 16, where he said:
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> > The release of a member of the Canadian Forces prior to a Court Martial does not render certain sentences set out in section 139 of the National Defence Act moot. If that were the case, Parliament would have mentioned it expressly. It is reasonable to believe that certain sentences may be found to be inadequate whenever the offender has already been released from the Canadian Forces. However, these sentences are not inadequate in and of themselves. They are relevant if they pursue valid and justifiable objectives under the circumstances.

> Some may claim that a severe reprimand is pointless in the case of an offender who has already been released from the Canadian Forces prior to the trial. With respect, such an approach fails to take into account the objective that the severe reprimand achieves in the balancing exercise that is the determination of a just and appropriate sentence. In this case, the severe reprimand is meant to achieve the objectives of general deterrence and denunciation of the behaviour, to make members of the Canadian Forces understand that this type of offence is harmful to military discipline because it undermines the mutual trust that must exist between members of a military force.

[38] In summary, considering the circumstances of the offence and of the offender, the applicable sentencing principles, and the aggravating and mitigating factors mentioned previously, I cannot conclude that the sentence being jointly proposed would bring the administration of military justice into disrepute or would otherwise be contrary to the public interest. I must, therefore, accept it.

[39] Counsel are highly knowledgeable about the circumstances of the offender and the offence and, as stated during submissions, have taken the interests of the offender, the chain of command and the broader public into consideration in arriving at their agreement on the proposed sentence. I trust that they are entirely capable of arriving at resolutions that are fair and consistent with the public interest. They are to be commended on their excellent submissions to the Court.

[40] LCol Therrien, these charges are very serious, particularly considering your rank and your position of trust over cadets and cadet staff. You were expected to lead your subordinates and cadets. In this case, you did exactly the opposite and your actions had a significant negative impact upon J.A. and L.P. This behaviour clearly does not align with the expectations of senior officers, particularly one in such an important role to support the best interests of cadets and cadet staff.

[41] However, you have demonstrated that you accept responsibility with your guilty plea. I note your sincere apology. I believe that you are contrite and deeply regret the circumstances that led to these charges. The Court concurs with counsel that this was an isolated incident. Other than this incident before the Court, you have served the CAF honourably for over thirty years as a cadet, member of the Reserve and Regular Force and as a volunteer with the cadets. You have been retired for some time and continue to serve the RCAF indirectly in a civilian capacity. Your sentence will allow you to continue with your civilian employment and continue to be a productive member of society. I wish you the best of luck moving forward.

[42] **FOR THESE REASONS, THE COURT:**

[43] **SENTENCES** LCol Therrien to a severe reprimand and a fine in the amount of $2,500 dollars, to be paid within thirty days of this judgment.

Counsel:

The Director of Military Prosecutions as represented by Major O. Vinet-Gasse

Major I. Gagné, Defence Counsel Services, Counsel for Lieutenant-Colonel Y. Therrien