

Airdrie, Alberta
September 14, 2014

MY FILE: 070

Ms. Suzanne Legault
The Information Commissioner of Canada
Place de Ville, Tower B
112 Kent Street, 7th Floor
Ottawa, Ontario
K1A 1H3

Dear Ms. Legault:

Re: MISSING RECORDS COMPLAINT DND FILE: A-2014-00169

Please find attached a copy of my original *Access to Information Act* request, a copy of the DND cover letter dated August 18, 2014 received on September 26, 2014. This URL provides access to the Department's 109-page response.

<https://nfa.ca/sites/default/files/DND%20ATI%20Response%20-%20Role%20in%20High%20River%20Law%20Enforcement%20Aug%2018%2C%202014.pdf>

I wish to complain about the missing records in the Department's response. I specifically requested the following: *Reference is being made to the Department of National Defence (DND) involvement in the emergency response to the flood in High River, Alberta in June of 2013 and the assistance the military provided to the RCMP to conduct their door-to-door searches and seizures. Please provide copies of specific records related to the refusal of National Defence personnel to participate in the kicking in of doors to High River homes by the RCMP even though the RCMP considered this activity as a search of "survivors". And, copies of records that show the rationale used to justify the Canadian Armed Forces personnel to provide transportation to the RCMP officers to the High River homes so they could kick in the doors and seize private property without warrants. And copies of any records related to this apparent contradiction in the Canadian Force's interpretation of the Request for Assistance from the Alberta Government and the orders given by the Minister of National Defence and/or their commanders in charge of the High River operation.*

The records provided by the department are good at providing copies of e-mails with references from the MNDO (Minister of National Defence Office) and even the PMO (Prime Minister's Office) with questions but for some reason didn't provide copies of the e-mails with the DND's answers to the MNDO and the PMO.

EXAMPLE ONE

- PDF page 26 - June 27, 2013, LFWA Desk Officer asks: "**Request confirmation whether or not CAF personnel assisted with the removal of firearms from High River residences. ASAP response is requested.**"

- On PDF page 27 the follow-up e-mail asks: "**The reporter, _____ is filing on this tonight. He's had gun organizations tell him the military entered homes as well. MNDO has asked to confirm ASAP if this actually occurred.**"
- Further on PDF page 27 the e-mail clarifies: "**PMO is saying that gun organizations are saying this.**"
- On PDF page 28 Captain Tompkins' e-mail states: "**Roger sir. I'll find out.**"

Unfortunately, the department fails to provide a copies of the e-mails with the answers to what Captain Tompkin's found out.

EXAMPLE TWO

SEE TEXT FROM PDF PAGE 29 - MNDO stands for "Minister of National Defence Office"
----- Original Message -----

From: Tompkins Capt MM@DND MND@Ottawa-Hull To: Cook Maj BS@SJS
Operations@Ottawa-Hull

Cc: Mialkowski Col CJJ@SJS Operations@Ottawa-Hull; Boucher LCol JRL@CDS@Ottawa-Hull; Allan LCol PC@VCDS@Ottawa-Hull; Prohar Maj D@VCDS@Ottawa-Hull; Hols E@DM@Ottawa-Hull; Vandahl LCol ES@DN MND@Ottawa-Hull; Sindrey Maj GG@DND MND@Ottawa-Hull; Belair LCdr S@DND MND@Ottawa-Hull; Gener MCpl SL@DND MND@Ottawa-Hull; Wong Capt BSJ@DND MND@Ottawa-Hull; Smyth Capt TA@DND MND@Ot Hull

Sent: **Thu Jun 27 21:43:42 2013**

Subject: URGENT MNDO RFI: High River Gun Seizures Sir,

- **MNDO have been told that CAF members may have been present or participated in these searches/seizures.**
- **MNDO is asking to confirm whether this is true or false?**
- **MNDO has asked for confirmation NLT 0700 tomorrow morning.**

Once again, the e-mails with the "confirmation" are not provided by the Department of National Defence. It seems highly unlikely that Captain Tompkins didn't respond to the Minister's Office as promised and that all those copied with this e-mail didn't also request and receive a full explanation.

MINISTER'S RESPONSE MISSES THE MARK

On PDF PAGE 102 of the DND ATIP RESPONSE (FILE: A-2014-00169) dated August 18, 2014 there is an e-mail response from Rob Nicholson's Minister's Correspondence Unit dated January 29, 2014.

EXCERPT: "We have found no evidence of CAF members having kicked in doors of houses. If such action had taken place, it would have only been taken under the legal direction from the appropriate government authorities."

1. The fact is the RCMP had NO LEGAL AUTHORITY to "kick in doors of houses" under the Alberta Emergencies Management Act; consequently, neither did the Canadian Armed Forces. Only the Alberta Minister responsible can order such actions and everyone knows he did not. The RCMP were not in High River homes lawfully, as the Alberta Property Rights Advocate pointed out in his report tabled in the Legislature on June 2, 2014. Here is an excerpt from his report: **"As previously noted, Deputy Commissioner McGowan advised that the RCMP Members involved in this situation did not take operational direction from elected officials or public service employees. Instead, they relied on the authority of section 19 of the Emergency Management Act. But if such actions were taken by the RCMP Members under section 19 without Ministerial approval or direction, as normally would be required by the Act, their interpretation of that section is misguided."** Note: Link to his full report provided below.

ALBERTA PROPERTY RIGHTS ADVOCATE 2013 ANNUAL REPORT - JUNE 2, 2014
Forced Entry of Homes in the Town of High River (Pages 17-21)
http://justice.alberta.ca/programs_services/about_us/prao/assets/AnnualReport2013.pdf

2. Why did the Minister's e-mail only refer to evidence of the soldiers kicking in doors but once again fails to answer the questions about soldiers "assisting with the removal of firearms". Why didn't the department provide records of their investigation that "found no evidence"? Why didn't they provide the e-mail responses to the questions posed by PMO and the Minister of Defence's own office asking if the soldiers were involved in the seizure of firearms?

3. Finally, we have reports from those who say they saw soldiers kicking in doors, high-fiving each other after kicking in doors and carrying rifles away from High River homes. We also have reports from soldiers telling their friends they were disgusted with what the RCMP were doing in High River (i.e. throwing valuable firearms into CAF dinghies). If the DND did a thorough investigation as the Minister's e-mail suggests, then they would at least have records showing they investigated these allegations.

"NO FURTHER RISK TO LIFE AND LIMB" ON JUNE 24, 2013

National Defence documents dated June 24, 2013 state: "No further danger to civilians (life and limb) and evacuations not requested." Why did the Canadian Armed Forces personnel continue to help the RCMP with their forced entries and unwarranted searches and seizures for another two days? The RCMP were making arrests and charging people with firearms related offences as a result of their searches in High River. Where are the DND records with the superiors authorizing Canadian Armed Forces personnel to continue assisting RCMP with these searches and seizures? Where are the records with soldiers reporting these forced entries and firearms seizures to their superiors?

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There were 330 soldiers in High River between June 20, 2013 and June 27, 2013. It is impossible to believe that not one soldier raised with their superiors the forced entries of hundreds of High River homes, searches without warrant and unwarranted seizure of more than 600 guns from 112 homes, tons of ammunition, firearms magazines, bows, bayonets, knives, etc, etc and that these soldiers reports didn't also find their way all the way to the Minister's office.

Please have the department fully disclose the records requested.

Yours sincerely,

[Original signed by]

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cc Right Honourable Stephen Harper, Prime Minister of Canada
Honourable Rob Nicholson, Minister of Defence
Honourable Steven Blaney, Minister of Public Safety
Honourable Peter Mackay, Minister of Justice
Chairman Ian McPhail, Commission for Public Complaints Against the RCMP