



OFFICE OF THE JUDGE ADVOCATE GENERAL

PERFORMANCE REPORT

PERIOD 01 APR 99 - 31 MAR 00

OFFICE OF THE JUDGE ADVOCATE GENERAL
Performance Report for the period ending 31 March 2000

TABLE OF CONTENTS

| | | |
|----------|--|-----------|
| 1 | EXECUTIVE SUMMARY..... | 1 |
| 1.1 | BACKGROUND..... | 1 |
| 1.2 | PERFORMANCE..... | 1 |
| 1.3 | CONCLUSION..... | 3 |
| 2 | INTRODUCTION..... | 4 |
| 3 | OVERVIEW OF THE JAG PERFORMANCE MEASUREMENT SYSTEM..... | 5 |
| 3.1 | STRATEGIC OBJECTIVES..... | 5 |
| 3.2 | MEASURES, INDICATORS AND STANDARDS..... | 6 |
| 3.2.1 | <i>Legal Stewardship</i> | 6 |
| 3.2.2 | <i>Quality Legal Services</i> | 7 |
| 3.2.3 | <i>Resource Management</i> | 9 |
| 3.2.4 | <i>Red Flagged Performance Indicators</i> | 11 |
| 3.2.5 | <i>Standards - Service Level Agreements</i> | 12 |
| 4 | JAG PERFORMANCE..... | 12 |
| 4.1 | PERFORMANCE EXPECTATIONS AND RESULTS..... | 13 |
| 4.1.1 | <i>Legal Stewardship</i> | 14 |
| 4.1.2 | <i>Quality Legal Services</i> | 15 |
| 4.1.3 | <i>Resource Management</i> | 17 |
| 4.2 | PERFORMANCE GAPS, IMPACT AND REMEDIAL ACTIONS..... | 21 |
| 4.3 | EXPECTED OUTCOMES OF REMEDIAL ACTIONS..... | 24 |
| 4.4 | PERFORMANCE ACCOMPLISHMENTS - SUMMARY..... | 25 |

1 EXECUTIVE SUMMARY

1.1 BACKGROUND.

In Apr 97 the Office of the JAG implemented a project to develop a performance measurement system to comply with the requirements of the new Expenditure Management System (EMS) introduced by the Treasury Board. A Performance Measurement Implementation Team (PERMIT) worked for two years on a part-time basis. This group of lawyers, administrators and consultants determined what areas of the JAG's mandate could and should be measured, developed performance measures, indicators, service standards, Service Level Agreements (SLAs), selected and tested an appropriate decision support software system, developed data gathering mechanisms, instructed lawyers and support staff on the measurement process and implemented a fully functional performance measurement system on 01 Apr 99.

I am very proud that we have achieved this demanding undertaking. We have now submitted a full fiscal year of performance information to thorough analysis and I believe that its conclusions have validated my strategic plan and have allowed me to focus attention and resources on needed improvements. I am confident that it accurately assesses the achievement of my goals and my progress in creating an innovative path into the future.

As this is my first such performance report, it is very detailed in its description of the manner in which we measured and analysed the fulfilment of my service delivery requirements and the achievement of my management strategies. I have prepared this executive summary to provide a more direct route to our performance results.

1.2 PERFORMANCE.

The mandate of my implementation team was to develop measurement criteria that would accurately reflect the performance of my office. They had to select performance measures that assessed the fulfilment of my mandate and responded to the Planning, Reporting and Accountability Structure (PRAS) of the department. I believe the performance measurement framework that we have developed will stand the test of time. It has already proved its ability to accommodate changes in Departmental Planning Guidance (DPG). Our key performance perspectives are:

- Legal Stewardship (remain abreast of emerging legal issues and address systemic improvements in an innovative manner);
- Quality Legal Services to Clients; and
- (Prudent) Resource Management.

Within the **Legal Stewardship** key perspective were 13 change objectives emanating from my 1999 business plan. Seven of these were major military justice projects that were reported on in my annual report on the administration of military justice. The remaining change objectives dealt with improved support to domestic and international operations and included some management initiatives. Substantial progress was made against all of these

change objectives and expectations were exceeded in many instances. The specific achievements are discussed at Section 4.1.1 of the report.

The **Quality Legal Services** performance area measured performance in terms of Service Reach - the extent to which our services are reaching the client base and Timeliness - our compliance with SLA time standards for service delivery, those required by law and self-imposed standards.

- **Service Reach:** Our forecast of the number of fulfilled client services was 10,848 based on the experienced estimates of directors and field legal officers. The achieved number of completed service requests was 13,077. From this result we infer an ability to respond to a large and expanding client base despite legal officer shortages. However, a detailed look at other indicators reveals that in order to sustain the current level of effort required to service this client base our directors and field legal officers are working excessive hours at the expense of their Quality of Life and this cannot continue indefinitely.
- **Timeliness:** The number of above completed service requests, which were subject to time parameters, was 11,171. We exceeded the total (11,311) since our directors apply self-imposed standards to most requests for legal advice and services. Not reflected in this total is the fact that some directorates did exceedingly well while others did not. The latter case is dealt with in Section 4.2 of the report where performance deficiencies, their impact and remedial actions are discussed.

The **Resource Management** perspective (Personnel and Financial) draws the most attention from our National Defence Headquarters Force Planning and Program staff who are largely concerned with resource accountability and delivery of programs within budget allocations and personnel ceilings. In this area we have proved to be very efficient except in the area of recruiting Regular and Reserve Force legal officers to fill our many vacant positions. We measure our resource management efficiency in four areas:

- **Well-Being of the Team:** This measurement area looks at Quality of Life (QOL) issues using a "Health Index" as well as performance indicators that assess their capacity to manage all their legal taskings:
 - Health Index - In general our personnel travelled on duty considerably more often than planned yet managed to take most of their scheduled leave and suffered less illness than was anticipated (using a one day per month estimate). There were no discipline cases among my staff, there were an anticipated two retirements and three grievances (an average number in a year);
 - Resource Capacity - Our military law workload vastly exceeded expectations while military justice services (courts martial) were below anticipated levels. The net effect was an operating capacity of 94.5%. This means that while my military law divisions were tasked beyond capacity, my defence and prosecution directorates, with fewer courts to manage, were able to expend more resources on much needed training of inexperienced defending officers and prosecutors.
- **Productive Work Environment:** This area looks at our Regular Force personnel in terms of shortages, their professional development and whether they meet the specialized requirements for the positions they hold. It looks at our Reserve Force

numbers and activity rates, examines civilian training and development trends and finally it assesses our compliance with mandated government programs.

Our Regular force legal officer strength is at less than 88 %, our Reserve Force legal officer strength is worse, at 65.6 % and only 48% of our Regulars hold all of the specialized training requirements for their positions. These results may be seen in detail at Section 4.1.3. of the report and our remedial measures are contained in Section 4.2. Those measures generally involve more vigorous recruiting and training strategies. If we can attain our established strength and are able to achieve the training standards we have assigned to our positions, we expect to be able to do more, better, faster and in a more proactive fashion.

- Financial Management: Our results in this area were generally outstanding in that we delivered our full program well under budget, returned surplus funds in a very timely fashion to the VCDS for reallocation to other organizations, were 100 % timely on payment of invoices and transferred additional operating funds to our minor capital program. The only negative result occurred in the area of protection of fixed assets due to the theft of seven laptop computers from the office of the DND/CF Legal Advisor and two from private homes (Section 3.2.4 refers).
- Resource Management Initiatives: Two were scheduled for phased implementation:
 - Institute Performance Management - This involved refining the performance measurement system, briefing all staff on its function, provision of monthly senior management briefings and adapting the framework to DPG 2000 and the Departmental Performance Measurement System. All milestones were met.
 - Budget Devolution to the Director level - Budgets were devolved and Level 2 business plans reflected directorate and field office funding distributions by activity to provide input to the Activity-Based Costing (ABC) model I have implemented this year.

1.3 CONCLUSION.

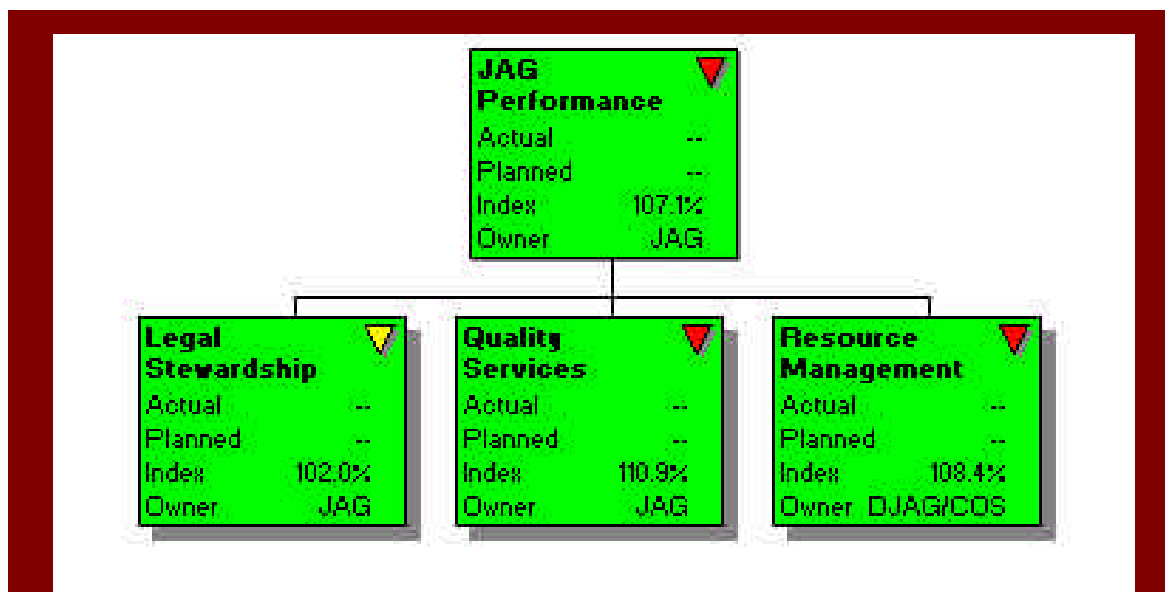
The JAG Performance Measurement System provides evidence, using selected measures, that my 1999 strategic targets were achieved. This despite critical shortages of trained legal officers. What's more, my program was delivered on time and under budget.

I encourage you to find an opportunity to read the full performance report so that you might share the high level of confidence that I have in my lawyers, managers and support staff. They are performing admirably, are well motivated, generally healthy and are striving for improvement in everything they do. I view this as a very encouraging way to undertake the challenges we face this year.

2 INTRODUCTION

The Defence Management System, which provides a linkage between defence policy and departmental planning as well as a strategic resource management framework, includes a Department-wide process for performance measurement that has been five years in the design phase. That process has just begun implementation trials.

Three years ago the Office of the JAG began developing an internal performance measurement framework based on areas of performance that would endure through time as meaningful markers of JAG performance and that would be adaptable to any Departmental performance measurement system that might evolve. Here are the broad areas we are measuring:



Note: Legal Stewardship is the proactive management of emerging legal challenges.

The JAG Performance measurement system was fully implemented on 01 Apr 99 and it may now be used to reliably report JAG performance for this past fiscal year. It comprises the quantitative and qualitative assessment of results, where actual performance is compared to standards set in Service Level Agreements (SLAs) as well as those that are prescribed by law and still others that are self-imposed.

Activity statistics gathered by legal offices and directorates are organized and displayed using a specialized decision support software application that provides me and my deputies with performance information upon which risk mitigation measures and resource allocation decisions can be reliably determined. We now have a complete fiscal year of performance information upon which to report real-time results of our efforts to fulfil the JAG mandate and of our ability to effectively and efficiently manage the resources entrusted to our use. This performance measurement system has become an integral part of our strategic management and has sharpened our focus for business planning. In the process it has increased the accountability of JAG management at all levels.

3 OVERVIEW OF THE JAG PERFORMANCE MEASUREMENT SYSTEM

Performance standards were determined through negotiation of SLAs and by incorporating statutory requirements and ethical considerations into service delivery expectations. The key remaining phase in the implementation of our performance measurement system was for my management team to convert theory to practice to harness the system and make it work for us as a tool to help manage the successful fulfillment of our total mission.

An important aspect of this endeavor was to impose a minimum workload on the staff performing data management on performance indicators. If they became over burdened, oppressed by this new duty, we would not acquire accurate measures of each client service we perform, the progress we expected to achieve toward the achievement of our strategic objectives and our ability to manage resources in a prudent fashion.

In order to guarantee the reliability and validity of the reports generated by our decision support software, our implementation team had to ensure that we had selected a meaningful representation of all measures and indicators to adequately and accurately represent our performance. The performance measurement system had to assess our full range of strategic objectives and each associated task.

3.1 STRATEGIC OBJECTIVES.

My strategic goals (objectives) for the past fiscal year were to:

- reestablish the credibility of the Military Justice System;
- prepare for and implement Bill C-25;
- implement restructured legal services; and
- rejuvenate the office of the JAG.

There were several strategic initiatives aimed at accomplishing these goals. They were listed in my 1999 business plan as "Remedial Actions":

- strategic targets to increase the transparency, accountability and consistency in the application of military justice in the CF;
- projects to ensure that CF members become increasingly aware of international humanitarian law; and
- several change management initiatives to better align our resources with client needs and to implement performance management at all levels.

My management team was fully aware that we did not have sufficient human resources to accomplish all of our goals within one year. We needed a reliable means to assess progress against schedule, determine performance gaps, address unforeseen and pressing issues and reallocate resources in an effective way rather than to simply 'grease the squeaky wheel'.

I am very pleased to state that our performance measurement system has proved itself as an excellent vehicle to propel us into the future with the confidence that we are applying our

human and fiscal resources in the most efficient and effective way possible toward the achievement of our goals and mandate.

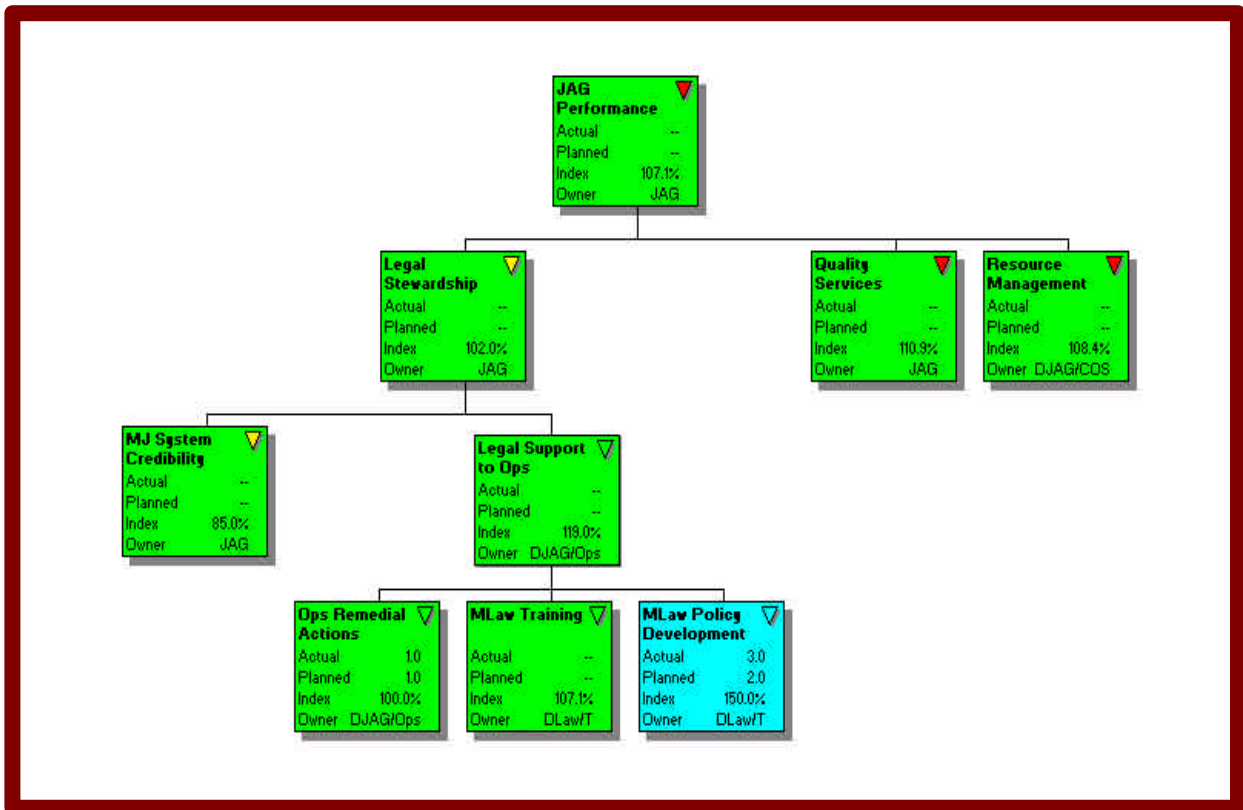
3.2 MEASURES, INDICATORS AND STANDARDS.

I have dealt with the performance of the military justice system in full detail in my statutory annual report. This report will examine the other areas of JAG performance. It will view this performance from three key perspectives. One tracks our progress in narrowing previously identified performance gaps and assesses our awareness of emerging legal issues. Another examines JAG compliance with SLAs, statutory and ethical requirements, all of which oblige me to deliver high quality legal services in a timely manner. The third scrutinizes our ability to provide legal services in a cost-effective manner. These key performance perspectives are:

- Legal Stewardship (remain abreast of emerging legal issues and address systemic improvements);
- Quality Service to Clients; and
- (Prudent) Resource Management.

3.2.1 Legal Stewardship.

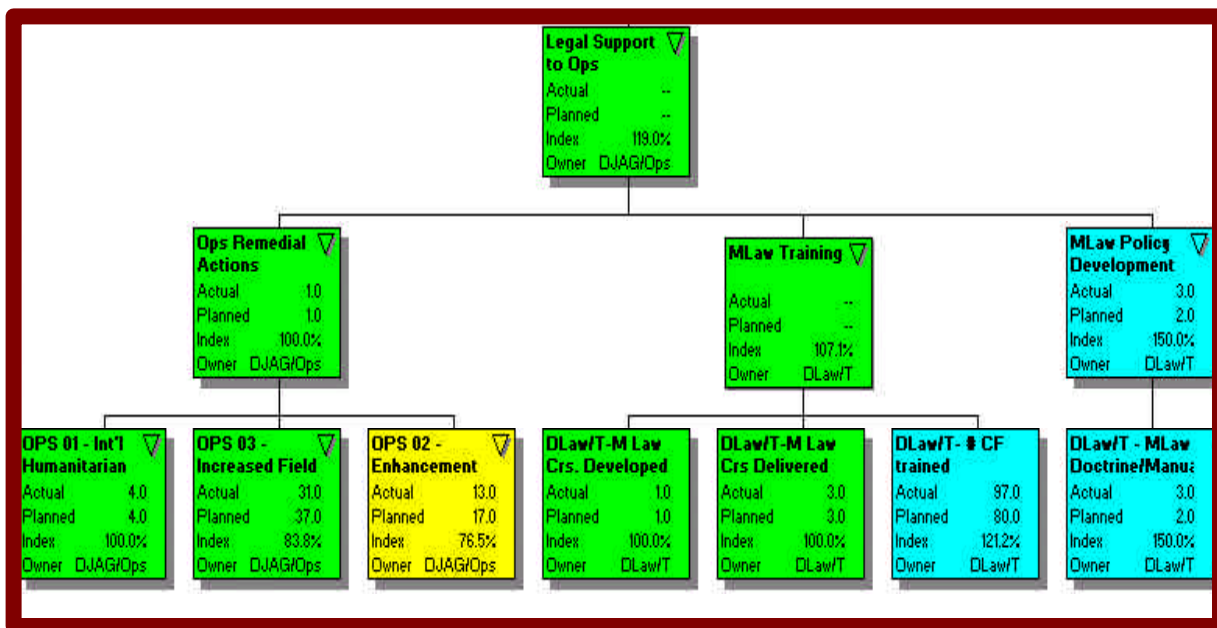
The graphic below, generated by the Panorama Business Views performance measurement software application, illustrates the measures assigned to the Legal Stewardship perspective.



Within the Legal Support to Ops measure are sub-measures with individual performance indicators. The sub-measures are 'Operations Remedial Actions' and training initiatives to further my goal of implementing restructured legal services. Performance indicators within these sub-measures include projects aimed at:

- delivering enhanced support to military operations; and
- increasing the awareness of CF members in matters of international humanitarian law.

A pictorial representation of our progress against plan for these initiatives is seen below.



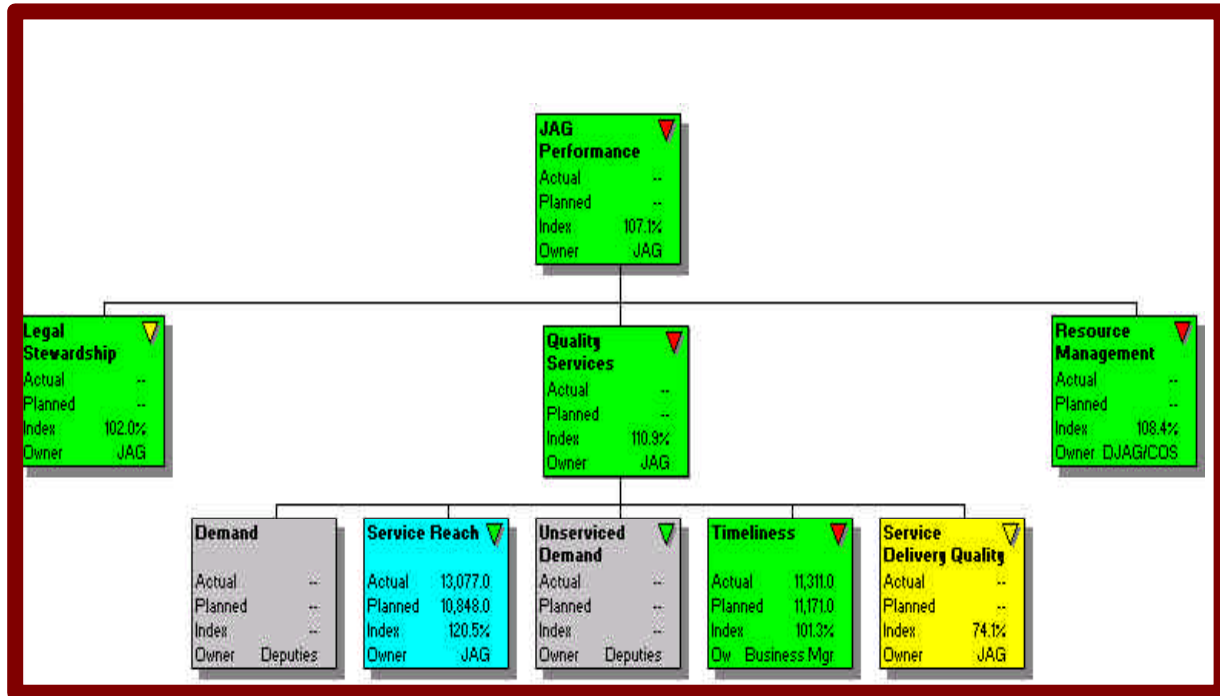
3.2.2 Quality Legal Services.

The graphic below displays the performance measures that assess our ability to fulfil set quality standards. The performance indicators selected for these measures address the client focus and were intended to answer the questions:

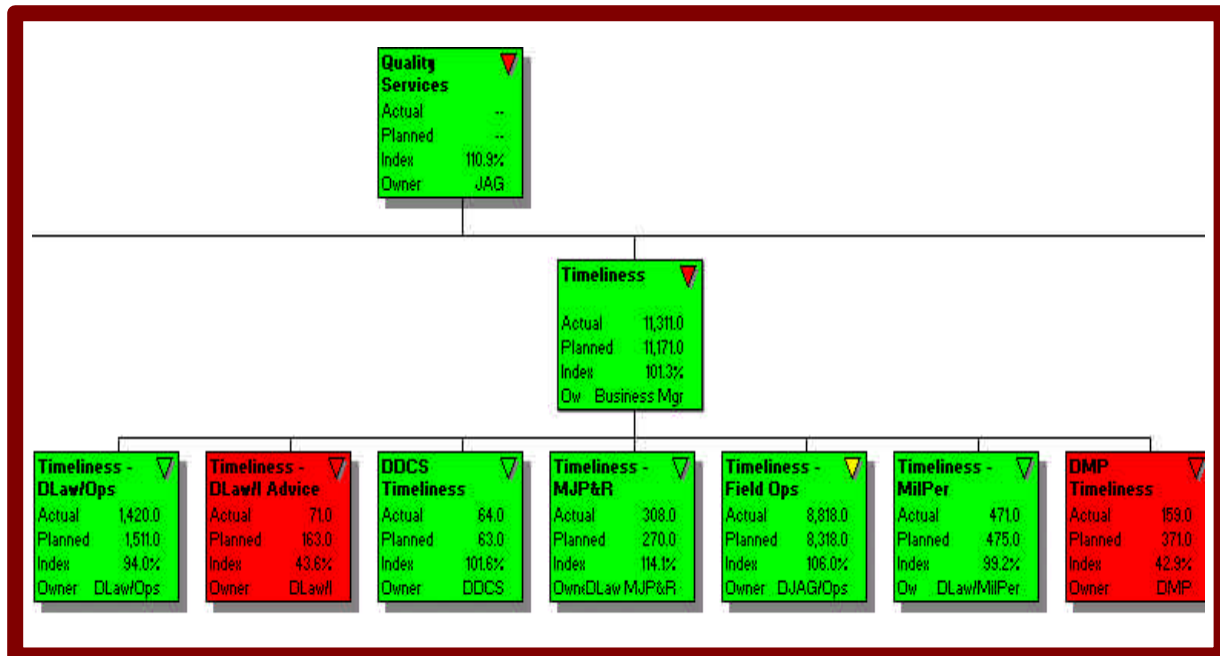
- are we reaching all clients who require military legal services?; and
- are we meeting the terms of our SLAs with clients?

We have recently determined that our selected indicators do not fully answer the first question. Consequently we have added two new performance indicators, represented by the grey boxes below, to the Quality Legal Services key perspective:

- Demand (total demand for legal advice and services); and
- Unserviced Demand (those that have gone unfulfilled to date).

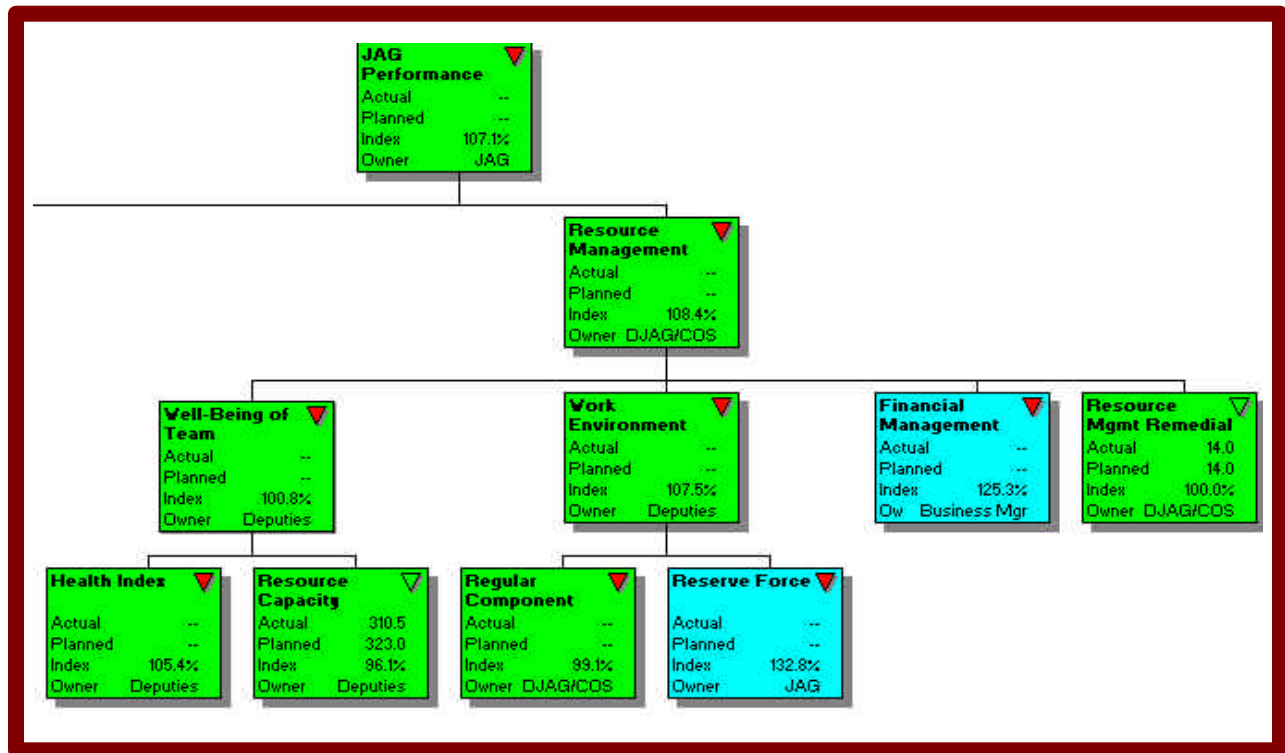


In this graphic we see our first indication of an inability to meet all performance expectations (the measure 'Timeliness'). While the green colour represents a generally good assessment, between 80% and 110% of target performance, the red flag indicates that, in one or more of the performance indicators, the achieved results are below 50% of planned performance. The graphic below expands the picture, narrowing our focus to the problem areas. These and other performance gaps will be discussed in Section 4.2.

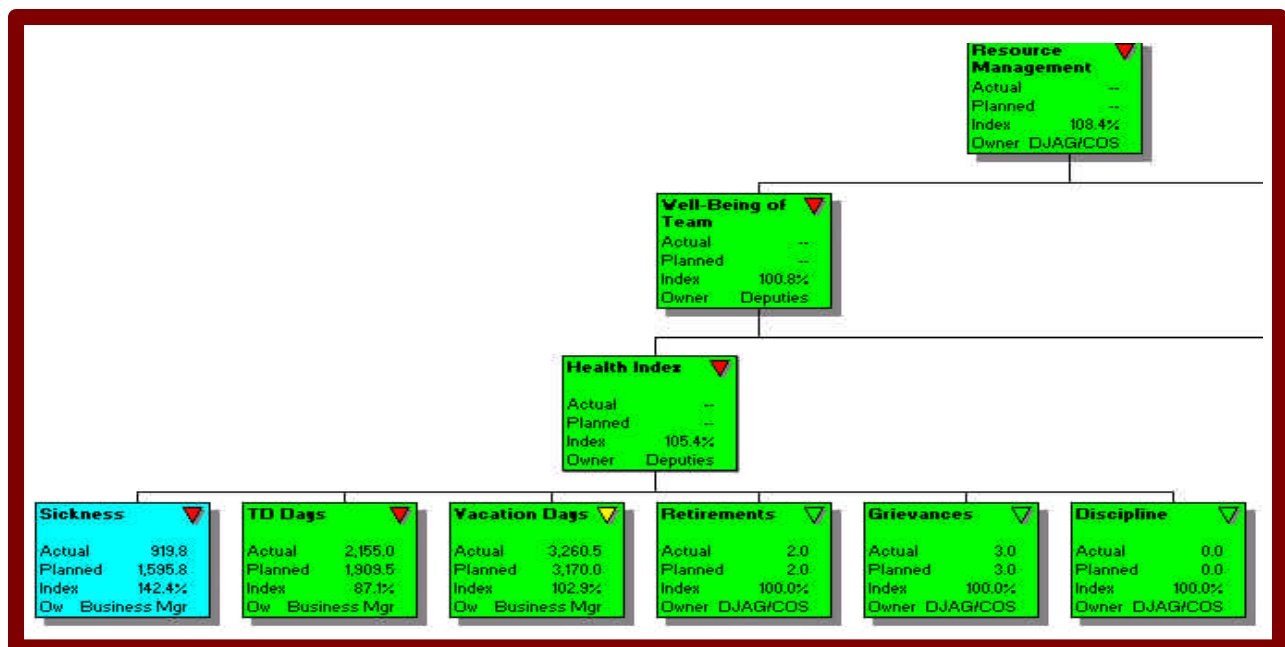


3.2.3 Resource Management.

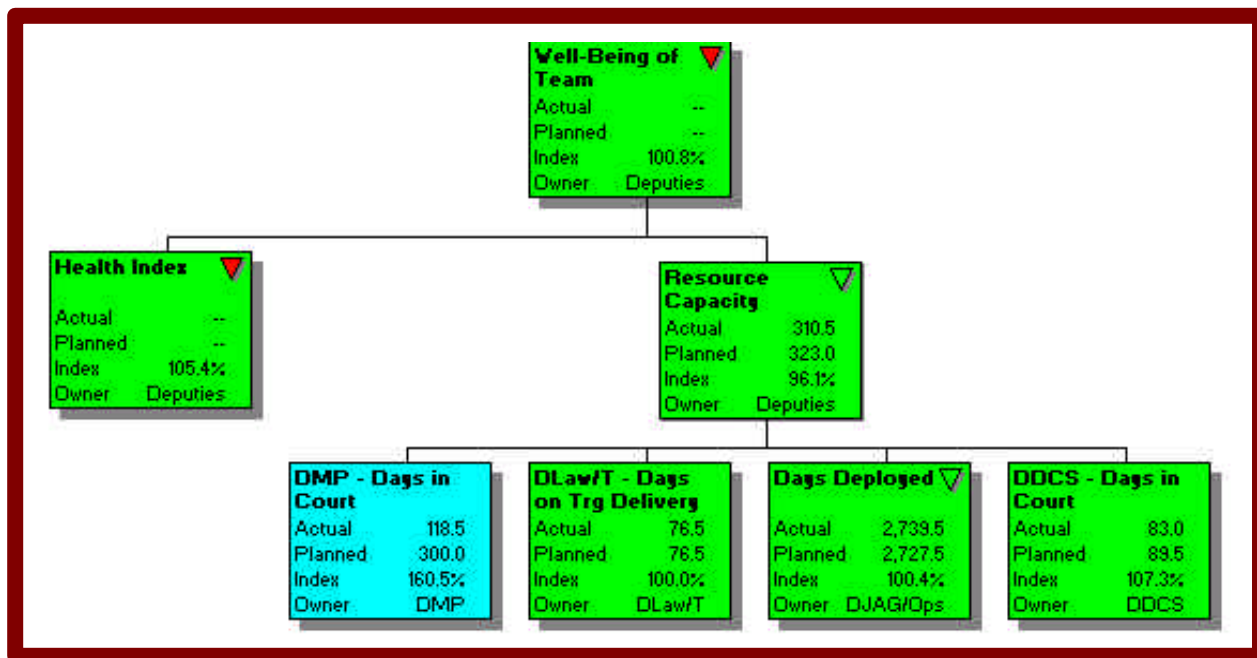
The graphic below displays four performance measures that assess our ability to manage personnel and financial resources and to improve resource management practices.



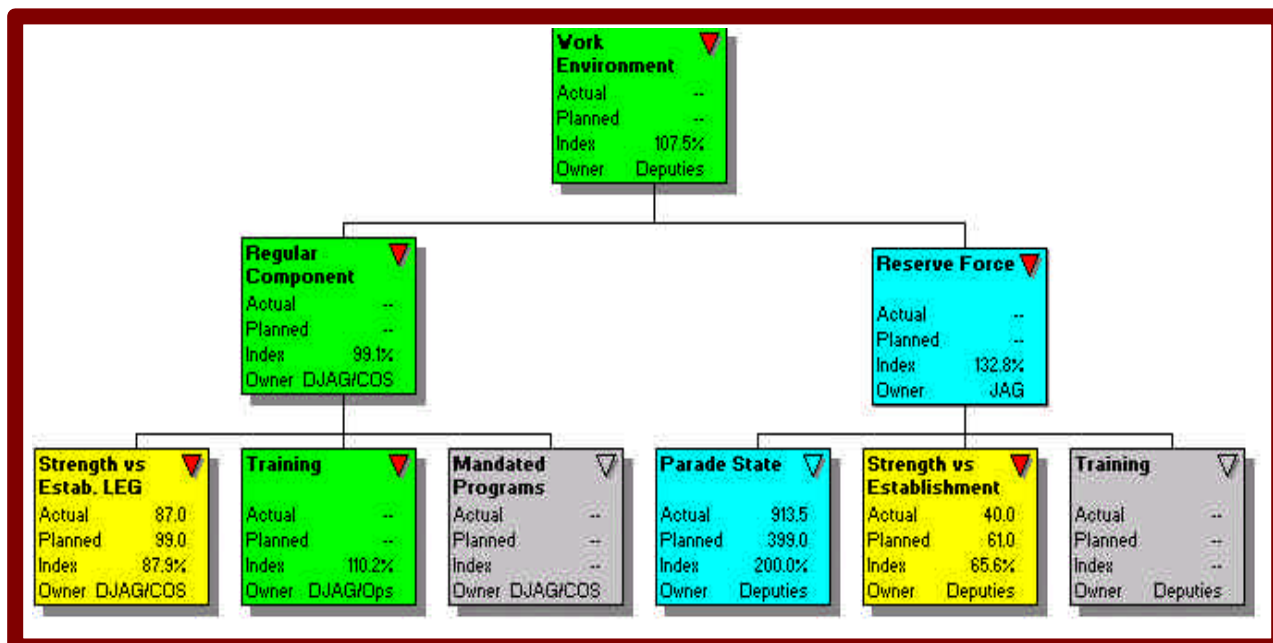
Within the measure 'Well-Being of the Team' is a sub-measure to assess the well-being of individuals. This 'Health Index' captures factors that, together, can provide an indicator of the institutional or systemic health of an organization.



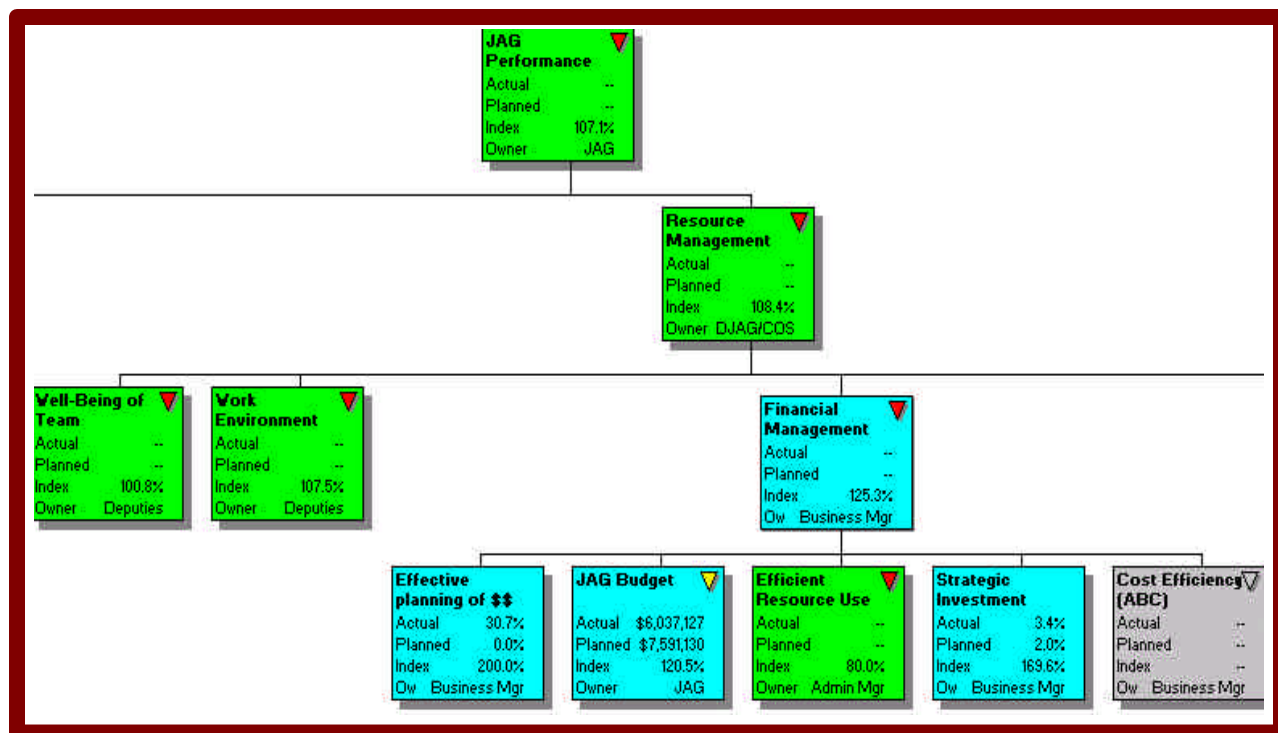
The sub-measure 'Resource Capacity' assesses our ability to meet high priority demands for legal services. It is a complement to the 'Health Index' in that it provides an indication of work stress to round out the measure 'Well-Being of the Team'. Resource capacity is also reflective of the accuracy of our workload and resource planning.



Another measure of our effectiveness in the management of resources is our ability to create a productive work environment. The performance indicators we have chosen for this measure include Force Development (Reg. & Res. legal officers), career development training of all JAG staff and compliance with mandated government programs which are designed to enhance the working conditions of government employees and CF members.



The 'Financial Management' measure includes several performance indicators, one of which is an Activity-Based Costing (ABC) model that will capture the cost of each defence objective to which my office contributes. This 'Cost Efficiency' performance indicator has just been implemented this year.

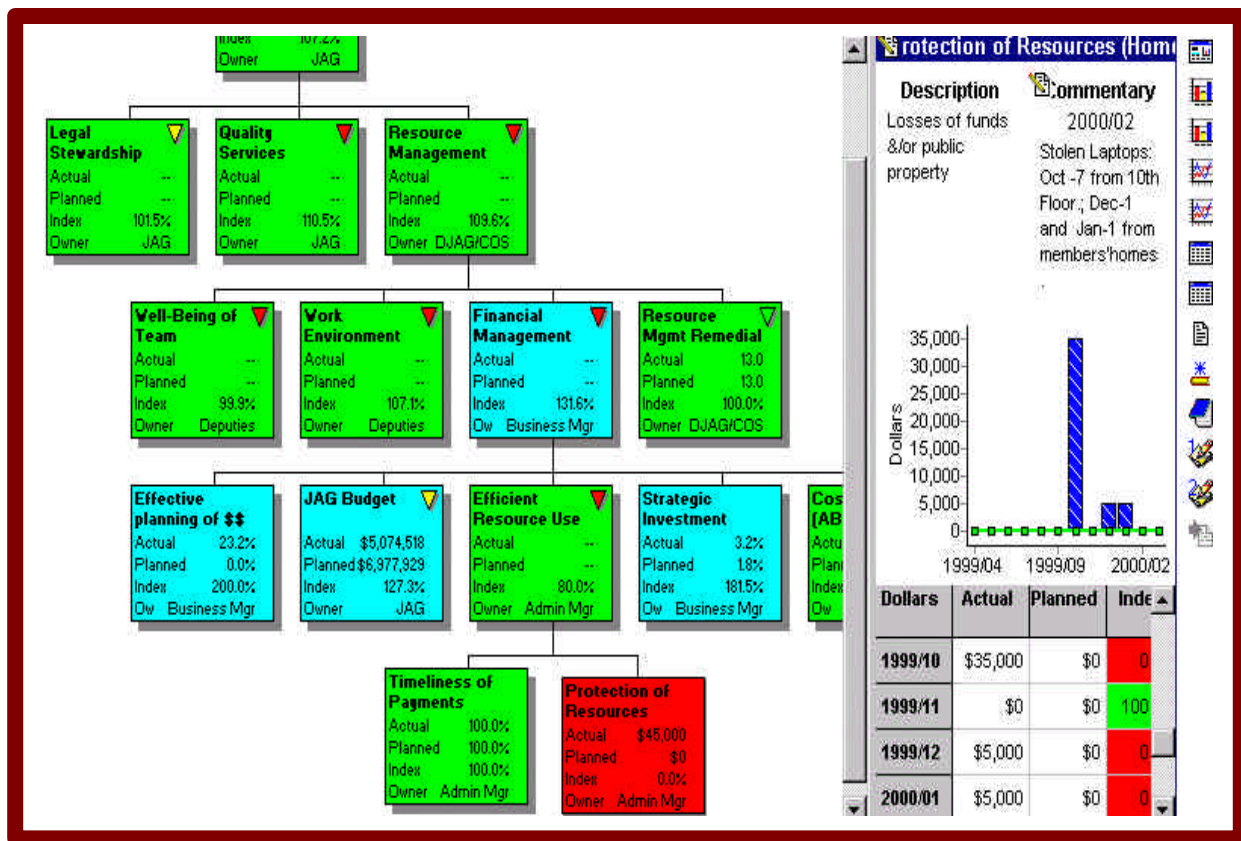


The final performance measure within the Resource Management perspective deals with Remedial Actions that are designed to improve our resource management practices. One of these is the full implementation of this performance measurement system, which has been achieved, though continues to evolve. Another planned improvement, the delegation of resource management to the director level in my office, has also been accomplished. While I am ultimately accountable for all JAG resources, Directors and regional office Assistant Judge Advocates General (AJAsG) are now individually accountable for the management of resources which are formally delegated to their control.

3.2.4 Red Flagged Performance Indicators

As is evident from the many little red flags in the above graphics, there are some performance measures in which results have been below expectations. All of these "gaps" in performance have been addressed through the year but some require additional remedial measures and these will be discussed in Section 4.2.

Our decision support software allows the operator to drill down on the red arrows to get to the precise performance problem. For example, the red flag in the 'Financial Management' measure (above) refers to the indicator 'Efficient Resource Use'. Drilling down further reveals the source of the problem (below).



3.2.5 Standards - Service Level Agreements

In 1998, Service Level Agreements (SLAs) were developed and tested on a trial basis in three JAG Directorates. The trial succeeded in identifying appropriate clients with whom to negotiate agreements and in developing a standard SLA format. Further effort was required to extend their application to all my divisions, directorates and to regional offices. My 1999 business plan declared the intention to complete the developmental work and to put in place SLAs with key clients during 1999/2000 fiscal year. This was done, with the result that much of the JAG performance in the area of Quality Legal Services has been measured against the standards negotiated in SLAs. We now have eight in place with several others in the negotiation process. In cases where SLA negotiation is not complete the service standards proposed to clients have been used to measure performance this year.

4 JAG PERFORMANCE

I am able to report that all of the goals I set for the past year have been accomplished. In addition, significant progress was made on new initiatives that evolved through the year as extensions of our work on the strategic plan. While our very thorough performance measurement system boasts a 104% success rate in achieving performance targets, it also points to trouble areas that warrant continued remedial attention. I believe that it is a major advantage to have known early on exactly where performance gaps were developing and to

have been able to direct effort toward their amelioration before they could impose constraints upon other areas of my operation. That may be the most important result of our successful implementation of performance measurement

Another advantage of regular (monthly) performance review has been the ability of my management team to integrate new strategies, such as Defence 2020, which emerged in the midst of the reporting year, into ongoing work on the strategic plan. While my goal of rejuvenating the office of the JAG resulted in several planned initiatives aimed at creating an adaptive and relevant path into the future, minimal effort was required to fully integrate Defence 2020 objectives into all of the initiatives on which we were embarked.

Here is an example of how the early warning feature of our performance measurement system has allowed us to effectively reallocate resources to further our objectives. Early on, our system revealed, through several performance indicators, that we were beginning to accumulate fiscal savings as a result of the later than anticipated passage of Bill C-25. Fewer than expected courts martial availed surplus funds that we were able to direct to the production of a Strategic Information System Plan aimed at right-sizing our informatics organization and planning our future technological needs. In the past, when such savings accrued, they were not submitted to the kind of analysis that allowed JAG senior management to redirect funding to better use.

It is an unfortunate reality that we do not have enough time to review, in greater depth, all of the detail that this very informative performance measurement system reveals. We are briefed monthly on our performance but tend to examine only the red and yellow flagged information with only a cursory review of all the excellent work represented by the colours green and blue displayed in this software program. This annual performance report offers me the opportunity to deliberate on our positive results as well as those that have demanded dedicated attention throughout the year.

4.1 PERFORMANCE EXPECTATIONS AND RESULTS.

It has been a challenge to maintain progress on planned initiatives in the face of shortages of trained legal officers. My first priority has been to implement the restructured military justice system which, as my annual report attests, has been accomplished through the dedicated efforts of an excellent corps of professional legal officers.

The shortage of trained legal officers within the Operations Division has made it very difficult to maintain the ambitious schedule we set at the beginning of the year for the legal training of both lawyers and CF members. This was one of our more complex challenges as we strove to raise the knowledge of the Canadian Forces in general and new legal officers in particular up to the level expected by the Special Advisory Group and the Somalia Commission. In order to make progress towards accomplishing this goal we redirected the efforts of many legal officers from their assigned activities of providing advice and services elsewhere to training initiatives.

Another pressing challenge was to stay abreast of international developments in military law to ensure that operational staffs would have the benefit of current military legal advice on evolving situations abroad.

4.1.1 Legal Stewardship

Thirteen major strategic initiatives were identified in my 1999 business plan as remedial actions to close the performance gaps addressed by Bill C-25. Seven of these initiatives dealt with the military justice system and have been covered in my Statutory Report on the administration of military justice in the CF.

The remaining initiatives dealt with projects to enhance legal support to operations and to address emerging military legal challenges in Canada and around the world. Progress of the operations initiatives was assessed under the key perspective of 'Legal Stewardship'. Here are the expected outputs and the results of our initiatives:

- Develop courses in the Law of Armed Conflict and the Law of Operations, train the legal training officers and deliver the courses to **80** CF members.

Results achieved - **97** CF members trained.

- Produce and publish **2** operational law doctrine manuals.

Results achieved - **3** manuals were produced and published:

- ✓ Collection of Documents and Treaties;
- ✓ LOAC Manual (Operational and Tactical Level);
- ✓ Code of Conduct Manual
 - an interactive CD ROM on the Code of Conduct has also been produced for wide distribution and will be placed on the JAG Website.

As well, the Manual on The Law of Armed Conflict (Spirit, Principles and Rules etc.) reached the draft stage and writing of both the Operational Law Manual and the Military Administrative Law Manual commenced.

- Provide a total of **37** military lawyers to expanded field units and formations to respond to the increased need for services and counsel.

Results achieved - only **31** legal officers could be posted to field offices last year due to systemic delays in the recruiting process for added legal officer positions.

- Improve the JAG capability to deploy Regular and Reserve Force lawyers on both domestic and international operations through the creation and use of a policy on selection, preparation and deployment of legal officers.

Results achieved - the plan has been prepared, is in use and is a living document subject to ongoing amendment in response to operational policy and procedural changes.

- Plan and conduct JAG support to OP ABACUS.

Results achieved - contingency plans were produced and tested, and 42 legal officers were deployed across Canada and were on duty or on call on New Years as part of the OP Abacus operation.

- Apply a Canadian Forces legal perspective and guidance to the timely resolution of all emerging military legal issues that could affect the conduct of Canadian Forces operations.

Results achieved include:

- ✓ Resolved legal issues involving the air campaign in Kosovo with the development of the National Targeting Process early this spring;
- ✓ Provided a full review and legal opinion regarding illegal immigration last Fall;
- ✓ Together with DFAIT successfully negotiated the Optional Protocol for War-Affected Children in January of this year;
- ✓ Assisted in the development of the International Criminal Court through participation in the Preparatory Commission where 90% of the work on the ICC's *Rules of Procedure and Evidence* and the *Elements of Crimes* was completed by end March 2000.
- ✓ Contributed to the successful negotiation of Protocol 2 to the Hague Convention on Cultural Property;
- ✓ Assisted in the conduct of the Dutch Srebrenica inquiry relating to UN operations in the former Yugoslavia which completed its work in Dec 1999;
- ✓ Completed the expropriation of the Canadian Forces Maritime Experimental and Training Range last Fall; and
- ✓ With DFAIT as the lead department, reviewed and negotiated the INTERFET Status of Forces Agreement.

Additional areas of ongoing involvement in international legal fora include:

- ✓ Provision of analysis and review of the *Visiting Forces Act*;
- ✓ Participation in the International Criminal Tribunal for Rwanda;
- ✓ Completion of pleadings and continued participation in the diplomatic negotiations in the Shanwick Litigation;
- ✓ Provision of legal advice concerning the loss of deemed resident status of CF spouses and dependants overseas under the *Income Tax Act*;
- ✓ Advice and counsel concerning Ballistic Missile Defence, drafting a Canada/US agreement concerning RADARSAT II involving negotiations with OGDs (DFAIT, DOJ, CSA, CSIS, Industry Canada, EMR) and the US; and
- ✓ Participation in the International Labour Organization Convention involving negotiation with OGDs (DFAIT, DOJ, HRDC) and providing briefings to the CDS.

4.1.2 Quality Legal Services

This performance area focuses on the client perspective and provides an assessment of our ability to meet client requirements for legal advice and services in all areas of military law and military justice. The measures were selected to evaluate:

- our performance against SLAs and other standards we have adopted; and
- the extent to which we have reached the clients who require our advice and services. These services should reach clients in the strategic, operational and tactical domains within DND/CF.

In selecting our performance indicators for last year we were concerned with services rendered and standards met. We have realized that we also need to know about services that were requested and not rendered and have added those performance indicators for this year. We also intend to implement client surveys this year to add the client's personal appraisal to our empirical assessment of the quality of our legal services.

The table below illustrates our performance results against the measures of 'Service Reach', defined as the extent to which legal advice & services are reaching client base, and 'Timeliness', defined as our ability to meet agreed SLA time parameters.

Performance Measure: **SERVICE REACH**

| <i>Service Line</i> | <i>Client Services Fulfilled PLANNED</i> | <i>Number of Service Requests Completed</i> | <i>Percentage of Target Reached</i> |
|---|--|---|-------------------------------------|
| <i>Prosecution Services</i> | 449 | 271 | 139.6 % |
| <i>Defence Services</i> | 71 | 71 | 100 % |
| <i>Military Justice Policy & Advisory Services.</i> | 497 | 577 | 116.1 % |
| <i>Personnel Legal Services</i> | 543 | 548 | 100.9 % |
| <i>Operational Legal Services</i> | 1,415 | 1,500 | 106 % |
| <i>Field Office Legal Advice & Services</i> | 7,604 | 9,838 | 129.4 % |
| <i>International Law Advice & Services</i> | 269 | 272 | 101.1 % |
| <i>Total JAG Mandate</i> | 10,848 | 13,077 | 120.5 % |

Note: 1 Prosecution services include courts martial. The measure is structured to show that fewer than planned courts martial is a positive result that exceeds the target performance. Hence the 139.6 % result.

Note: 2 The Legal Training Directorate provides its services in the form of discrete training projects such as the preparation of training materials, policies and manuals and the conduct of training courses. As such the Legal Training Service Line is measured under the 'Legal Stewardship' key perspective. It does not report service reach data in this performance area.

Note: 3 As noted on page 7 we did not capture total demand and unserved demand last year. We are doing so this year.

Performance Measure: **TIMELINESS (SLA Compliance)**

| <i>Service Line</i> | <i>Number of Service Requests Subject to Time Parameters</i> | <i>Number of Service Requests Completed ON TIME</i> | <i>Compliance Percentage</i> |
|---|--|---|------------------------------|
| <i>Prosecution Services</i> | 371 | 159 | 42.9 % |
| <i>Defence Services</i> | 63 | 64 | 101.6 % |
| <i>Military Justice Policy & Advisory Services.</i> | 270 | 308 | 114.1 % |
| <i>Personnel Legal Services</i> | 475 | 471 | 99.2 % |
| <i>Operational Legal Services</i> | 1,511 | 1,420 | 94 % |
| <i>Field Office Legal Advice & Services</i> | 8,318 | 8,818 | 106 % |
| <i>International Law Advice & Services</i> | 163 | 71 | 43.6 % |
| <i>Total JAG Mandate</i> | 11,171 | 11,311 | 101.3 % |

Note: Our Performance Measurement Implementation Team (PERMIT) determined the criteria for negotiating an SLA. They reasonably decided that SLAs apply to major clients only, defined as those to whom 20% or more of the resources of the directorate are devoted annually. The International Law directorate has a multitude of OGD clients none of whom (alone) consumes 20% or more of their resources. The International Law time factors assessed in this measure are self-imposed and are based on targets assigned for each issue by the lead department.

The net effect of these measures on the key perspective 'Quality Legal Services' is an overall performance rating of 110.9% which indicates that we generally exceeded our established expectations. Deficient areas of performance (↓) are addressed in Section 4.2.

4.1.3 Resource Management

This measure assesses the effectiveness and efficiency of our resource management practices, our ability to maintain a healthy, well trained and motivated workforce and a productive work environment. It also evaluates progress against schedule of management improvement projects. The results obtained in the selected measures are summarized in the tables that follow:

| | |
|-----------------------------|--------------------------------------|
| <i>Performance Measure:</i> | <u>WELL-BEING OF THE TEAM</u> |
|-----------------------------|--------------------------------------|



| <i>Performance Sub-measure:</i> | | | | <u>HEALTH INDEX</u> |
|---------------------------------|-----------------------|----------------------|-----------------------------|----------------------------|
| <i>Performance Indicators</i> | <i>PLANNED Values</i> | <i>ACTUAL Values</i> | <i>Percentage of Target</i> | |
| <i>Sick Days</i> | 1,596 | 920 | 142.4 % | |
| <i>Travel Days</i> | 1,909.5 | 2,155 | 87.1 % | |
| <i>Vacation Days</i> | 3,170 | 3,260.5 | 102.9 % | |
| <i>Retirements</i> | 2 | 2 | 100 % | |
| <i>Grievance Cases</i> | 3 | 3 | 100 % | |
| <i>Discipline Cases</i> | 0 | 0 | 100 % | |
| <i>Total all Indicators</i> | Disparate domains | Disparate domains | 105.4 % | |

Note: Fewer than anticipated sick days is a positive result that exceeds the target performance.


| <i>Performance Sub-measure:</i> | | | | <u>RESOURCE CAPACITY</u> <i>(ability to meet legal taskings)</i> |
|--|-----------------------|----------------------|-----------------------------|--|
| <i>Performance Indicators</i> | <i>PLANNED Values</i> | <i>ACTUAL Values</i> | <i>Percentage of Target</i> | |
| <i>Days in Court: Director of Military Prosecutions</i> | 300 | 118.5 | 160.5 % | |
| <i>Days in Court: Director of Defence Counsel Services</i> | 89.5 | 83 | 107.3 % | |
| <i>Days delivering legal training.</i> | 76.5 | 76.5 | 100 % | |
| <i>Days of operational deployment of legal officers</i> | 2,727.5 | 2,739.5 | 100.4 % | |
| <i>Total all Indicators</i> | 3,193.5 | 3,017.5 | 94.5 % | |

Note: The performance result is that we operated at 94.5 % of anticipated capacity last year. Within this aggregate assessment we recognize that fewer days in court is the better result while more days on deployment are preferred.

| | |
|-----------------------------|---|
| <i>Performance Measure:</i> | <u>PRODUCTIVE WORK ENVIRONMENT</u> |
|-----------------------------|---|

| <i>Performance Sub-measure:</i> | | | | <u>REGULAR FORCE COMPONENT & PUBLIC SERVANTS</u> |
|---|-----------------------|----------------------|-----------------------------|---|
| <i>Performance Indicators</i> | <i>PLANNED Values</i> | <i>ACTUAL Values</i> | <i>Percentage of Target</i> | |
| <i>Legal Officer Strength vs. Establishment</i> | 99 | 87 | 87.9 % |  |
| <i>Personnel Development Military/Civilian</i> | 710/105 | 731/167.5 | 110.2 % | |
| <i>Lawyers with Specialized Training</i> | 81 | 39 | 48.1 % |  |
| <i>Compliance with Gov't Mandated Programs</i> | | | | |
| <i>Total all Indicators</i> | Disparate domains | Disparate domains | 99.1 | |

Note: Although we fully comply with mandated government programs it is intended to submit this indicator to the measurement process this year.

| <i>Performance Sub-measure:</i> | | | | <u>RESERVE FORCE COMPONENT</u> |
|---|-----------------------|----------------------|-----------------------------|---|
| <i>Performance Indicators</i> | <i>PLANNED Values</i> | <i>ACTUAL Values</i> | <i>Percentage of Target</i> | |
| <i>Legal Officer Strength vs. Establishment</i> | 61 | 40 | 65.6 % |  |
| <i>Parade State (days)</i> | 399 | 913.5 | 229 % | |
| <i>Personnel Development Military/Civilian</i> | | | | |
| <i>Lawyers with Specialized Training</i> | | | | |
| <i>Total all Indicators</i> | Disparate domains | Disparate domains | 147.3 % | |

Note: Reserve Force legal officers have now been included in the JAG Personnel Plan. Personnel development and training qualifications for these individuals will be measured this year.

Performance Measure: **FINANCIAL MANAGEMENT**

| <i>Performance Indicators</i> | <i>PLANNED Values</i> | <i>ACTUAL Values</i> | <i>Percentage of Target</i> |
|--|-----------------------|----------------------|-----------------------------|
| <i>Effective Planning - % of funds reallocated</i> | 0 % | 30.7 % | 200 % |
| <i>Budget Management</i> | \$7,591,130 | \$6,037,127 | 120.5 % |
| <i>Efficient Use of Resources:</i> | | | |
| <i>Timeliness of Payments</i> | 100 % | 100 % | 100 % |
| <i>Protection of Resources</i> | \$0 | \$45,000 | 0 % |
| <i>Strategic Investment</i> | 2 % | 3.4 % | 169.6 % |
| <i>Cost Efficiency (ABC)</i> | | | |
| <i>Total all Indicators</i> | Disparate domains | Disparate domains | 125.3 % |



Note: Activity-Based Costing (ABC) is being applied this year to track JAG expenses against planned costs for each Defence Objective to which we contribute.

Performance Measure: **RESOURCE MANAGEMENT INITIATIVES**

| <i>Performance Indicators</i> | <i>PLANNED Milestones</i> | <i>COMPLETED Milestones</i> | <i>Percentage of Target</i> |
|---|---------------------------|-----------------------------|-----------------------------|
| <i>Implement Performance Management</i> | 10 | 10 | 100 % |
| <i>Budget Devolution to Director and AJAG level</i> | 4 | 4 | 100 % |
| <i>Implement Client Satisfaction Survey</i> | | | |
| <i>Total all Indicators</i> | 14 | 14 | 100 % |

Note: The client satisfaction survey will be implemented this year, providing the qualitative assessment feature to this performance analysis.

The net effect of these four measures on the key perspective 'Resource Management' is an overall performance rating of 108.2%. As with the rating for 'Quality Legal Service', this result is largely empirical as our performance measurement system is constantly evolving. While I am pleased with the positive results so far, I take greater pleasure in the way this system has captured the interest of my senior lawyers for their performance and resource management responsibilities. I believe it is an important tool in furthering one of my strategic goals for this year, fostering innovative leadership and management in the Legal Branch.

4.2 PERFORMANCE GAPS, IMPACT AND REMEDIAL ACTIONS

KEY PERSPECTIVE: *Legal Stewardship*
PERFORMANCE MEASURE: *Legal Support to Operations*
PERFORMANCE INDICATOR: *Increase field office support to 37 legal officers from 25*

| <i>Description of GAP (deficiency)</i> | <i>IMPACT on PERFORMANCE</i> | <i>REMEDIAL ACTION</i> |
|---|---|--|
| <i>The number of legal officers assigned to field offices was to be increased by 1/3rd. Full staffing to 37 positions has fallen short by 6 and the buildup has been much slower than anticipated.</i> | Reduced availability of legal advice and services to field units and formations, somewhat mitigated by utilizing Reserve Force legal officers where possible. | The recruiting process has begun to streamline for both Regular and Reserve Force legal officers and we are recruiting in earnest. |

KEY PERSPECTIVE: *Quality Legal Services*
PERFORMANCE MEASURE: *Timeliness*
SERVICE LINE: *Prosecution Services*

| <i>Description of GAP (deficiency)</i> | <i>IMPACT on PERFORMANCE</i> | <i>REMEDIAL ACTION</i> |
|---|---|---|
| <i>Prosecution timeliness is well below the standards set by the Director of Military Prosecutions: 14 days for a pre-charge review in 75% of cases; 3 months from date charge laid to proceed to trial/non-preferral in 75% of cases; and no extensions requested in filing appeals.</i> | The timeliness standards set by the Director are internal. They establish a goal which, when achieved, will enhance the effectiveness of the military justice system. | The director has initiated a shared tracking mechanism which will encourage timely disposition of court martial charges and assist in early identification and remediation of delays. |

KEY PERSPECTIVE: Quality Legal Services

PERFORMANCE MEASURE: Timeliness

SERVICE LINE: International Law

Advice & Services

| Description of GAP (deficiency) | IMPACT on PERFORMANCE | REMEDIAL ACTION |
|---|---|--|
| <i>The Directorate of International Law is established for three legal officers and has been functioning with only one, the Director, for a substantial part of the year. It has been impossible for him to meet the demand for legal advice.</i> | Most International Law advice is provided to OGDs (DFAIT, DOJ, CSA, CSIS, Industry Canada, EMR). They are aware of our constraints, have thus far been understanding of our use of selective neglect to manage the workload but are concerned about our inability to respond to all issues. | The second lawyer has returned from deployed operations to resume work in the directorate. A newly recruited legal officer will join the team later this year. An exchange program, planned with DFAIT, will add experience in international law. As well, a paralegal has been added to the directorate to manage MOUs and another paralegal will be hired to service both the International and Operations directorates. |

KEY PERSPECTIVE: Resource Management

PERFORMANCE MEASURE: Productive Work Environment

PERFORMANCE SUB-MEASURE: Regular Force Component

PERFORMANCE INDICATOR: Legal Officer Strength vs. Establishment

| Description of GAP (deficiency) | IMPACT on PERFORMANCE | REMEDIAL ACTION |
|---|--|--|
| <i>We have laboured under an average 13% legal officer shortage in spite of concentrated recruiting efforts during past year.</i> | Shortages in field offices, international and operational law and legal training, have impacted performance by delaying provision of legal advice and deferring legal services in military law (ex. the Comox legal officer position remains vacant and training for deployment has been put at risk). | All legal officer production options are being vigorously pursued but all of our vacancies will not be filled before the summer of 2001. Even then, the new lawyers will not be fully employable for up to two years in spite of intensive training. Until then current priorities will prevail. |

KEY PERSPECTIVE: Resource Management
PERFORMANCE MEASURE: Productive Work Environment
PERFORMANCE SUB-MEASURE: Regular Force Component
PERFORMANCE INDICATOR: Lawyers with Specialized Training

| Description of GAP (deficiency) | IMPACT on PERFORMANCE | REMEDIAL ACTION |
|---|--|---|
| <p><i>Currently 81 of our legal officer positions are annotated with specialty training requirements. Owing to 12 vacancies, 12 new (untrained) lawyers and attrition we find ourselves woefully short of fully qualified military law practitioners.</i></p> | <p>Strategies such as employing new lawyers where their individual specialties and interests could make the greatest impact have somewhat mitigated the impact on the quality and timeliness of our legal advice and services.</p> | <p>A complete review of our specialty training requirements will be conducted to realign them to our new professional development plan. We are selecting only the best, highly motivated, well educated recruits to our fold, many of whom already possess specialties we require. They will acquire essential legal officer qualifications as a first priority following their Basic Officer Training Courses.</p> |

KEY PERSPECTIVE: Resource Management
PERFORMANCE MEASURE: Productive Work Environment
PERFORMANCE SUB-MEASURE: Reserve Force Component
PERFORMANCE INDICATOR: Legal Officer Strength vs. Establishment

| Description of GAP (deficiency) | IMPACT on PERFORMANCE | REMEDIAL ACTION |
|--|---|---|
| <p><i>On 1 Nov 99 the JAG Reserve was reorganized to increase its numbers from 47 to 61 legal officers and to realign it to the new mandates of my office. At the close of March 2000 we were 21 legal officers short of the mark.</i></p> | <p>The JAG Reserve has been our surge capacity and a source of re-supply to our Regular Force Component. We have relied heavily on this dedicated corps of well trained legal officers to minimize performance lapses in operational law, legal training and the military justice system.</p> | <p>A vigorous recruiting and training program has been actively and successfully filling our Reserve Force ranks with keen, experienced lawyers. In line with the "Total Force Concept" they are being fully integrated into the JAG structure.</p> |

KEY PERSPECTIVE: Resource Management

PERFORMANCE MEASURE: Financial Management

PERFORMANCE INDICATOR: Protection of resources

| <i>Description of GAP (deficiency)</i> | <i>IMPACT on PERFORMANCE</i> | <i>REMEDIAL ACTION</i> |
|--|--|--|
| <i>Approximately \$45,000 of JAG computer equipment was stolen last year from homes and from the Office of the DND/CF Legal Advisor, whom we support.</i> | Fortunately replacements were readily available. Aside from down-time and financial loss performance was not seriously affected. | Security has been enhanced in the Office of the DND/CF LA and everyone signing out a laptop for home use is warned of essential security measures. |

4.3 EXPECTED OUTCOMES OF REMEDIAL ACTIONS.

Service levels should hold or improve modestly in the field as on-job training progresses. In Ottawa, there will be no change in military law services until later this summer when a gradual improvement will take hold as new law graduates make their presence known. Significant improvement regarding the delays in routine and relatively low priority work in military law may not be evident until next summer.

In the same time period international legal service levels and field operations support will improve. In this area alone, service shortfalls in timeliness are serious and running at a satisfaction rate of 35% on time. Filling this gap over time will see service levels in this area improve to 60% by the summer of 2001 and to 80% by the following year. Legal operational training will improve with a published Law of Armed Conflict Manual later this year which will also see an increase in the number of Law of Armed Conflict courses. As well we expect to increase the level of our operational readiness with the implementation of our policy on selection for deployment. Within the next three years we expect to have 40% of our JAG legal officers qualified for deployment on short notice.

Our remedial actions cannot immediately resolve the critical shortage of trained and experienced legal officers. Through this year there will continue to be lower than ideal service levels at NDHQ and in the field for relatively low priority legal services. Everything will eventually get done but some services will take longer. We will manage this situation through existing and expanded application of service level agreements, our performance measurement system and regular contact with clients ensuring that all important issues are being addressed in a timely fashion.

4.4 PERFORMANCE ACCOMPLISHMENTS - SUMMARY

The JAG vision is that Justice be done in the Defence of Canada. This vision means that CF operations are carried out in accordance with national and international law. This vision also requires that the Canadian government, CF Commanders and any supporting agencies have ready access to competent and timely legal advice.

I believe that our performance measurement system has confirmed that, in the past year, we delivered our military law advice and services in an efficient, cost effective and generally timely manner and that the progress we made towards our strategic goals has moved us substantially towards this stated vision.

My FY 1999/2000 Business Plan identified five strategic targets for our efforts over a two year period. These along with the impact of key related initiatives are described below.

Strategic Target # 1: Re-establish the credibility of the Military Justice System.

The roll out of the new structures and services for military justice will demonstrate the enhancements regarding transparency, consistency and comparability to the Canadian Charter of Rights.

Strategic Target # 2: Implement Bill C-25

The successful completion of certification training will make all COs and Delegated Officers aware of the new procedures and practices affecting summary trials and powers of punishment.

Strategic Target # 3: Implement revised legal services

Phase II of the restructured DND and CF legal services organization must be implemented. This requires addition of new lawyers and support staff for both the DND/CF Legal Advisor and the JAG, and a coordinated education program to familiarize DND and CF clients with the changes.

Strategic Target #4: Establish effective channels for legal advice at strategic, operational and tactical levels in CF.

These changes will also permit us to focus our efforts on expanding operational activities and services through improved research capabilities and training of our legal officers and deployable forces. Legal offices will provide units and formations local level support and they will have access to specialists in Ottawa for timely and accurate operational and administrative advice and services.

Strategic Target # 5: Rejuvenate the office of the JAG.

The development and implementation of a performance measurement system will enable the JAG to measure and report on progress against the business plan and be proactive in the management of legal resources and services.

The first two targets have been dealt with in my Statutory Report on the administration of military justice in the Canadian Forces. To highlight some of the noteworthy achievements, we have implemented Bill C-25, created the offices of the Director of Military Prosecutions and the Director of Defence Counsel Services, carried out certification training for presiding officers of summary trials and championed the creation of the National Military Law Section within the Canadian Bar Association as a forum of intellectual exchange on military law and military justice issues establishing an important link between the civilian and military legal communities.

To some degree, this report has been an exploration of the JAG performance measurement system. I believe, however, that it has provided substantial evidence of the significant advances made on my strategic targets.

In conclusion I would say that fiscal year 1999-2000 was a rebuilding year in the Office of the JAG from the ground up. It was a period in which: "Best Practices" were assimilated; a new legal training infrastructure was put in place; a dozen new lawyers were carefully selected and integrated into our organization; our client base (service reach) has expanded beyond expectations; a personnel development plan has been instituted; legal officers engaged in a record number of domestic and international operational deployments; and our participation in the timely resolution of military legal issues impacting Canadian Forces operations around the world has been remarkable given the constraints on available legal officers.