



Military Police
Complaints Commission
of Canada

Commission d'examen des
plaintes concernant la police
militaire du Canada

BUILDING CONFIDENCE

THE MILITARY POLICE COMPLAINTS COMMISSION OF CANADA □ 2005 ANNUAL REPORT



Canada

MISSION

To promote and ensure the highest standards of conduct of military police in the performance of policing duties, and to discourage improper interference in any military police investigation.

VISION

To be an organization that exhibits fairness and impartiality, inspires trust and contributes to a climate of confidence in military policing.



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March 31, 2006

The Honourable Gordon O'Connor, P.C., M.P.
Minister of National Defence
National Defence Headquarters
MGen George R. Pearkes Building
Ottawa ON K1A 0K2

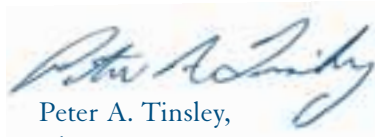
Dear Minister:

In accordance with section 250.17(1) of the *National Defence Act*, it is my duty and privilege to submit for tabling in Parliament the Military Police Complaints Commission's Annual Report for 2005.

In this Annual Report, you will find a detailed discussion of all aspects of the Commission's activities during 2005, including summaries of some of its reviews and investigations of complaints.

All of which is respectfully submitted.

Yours truly,

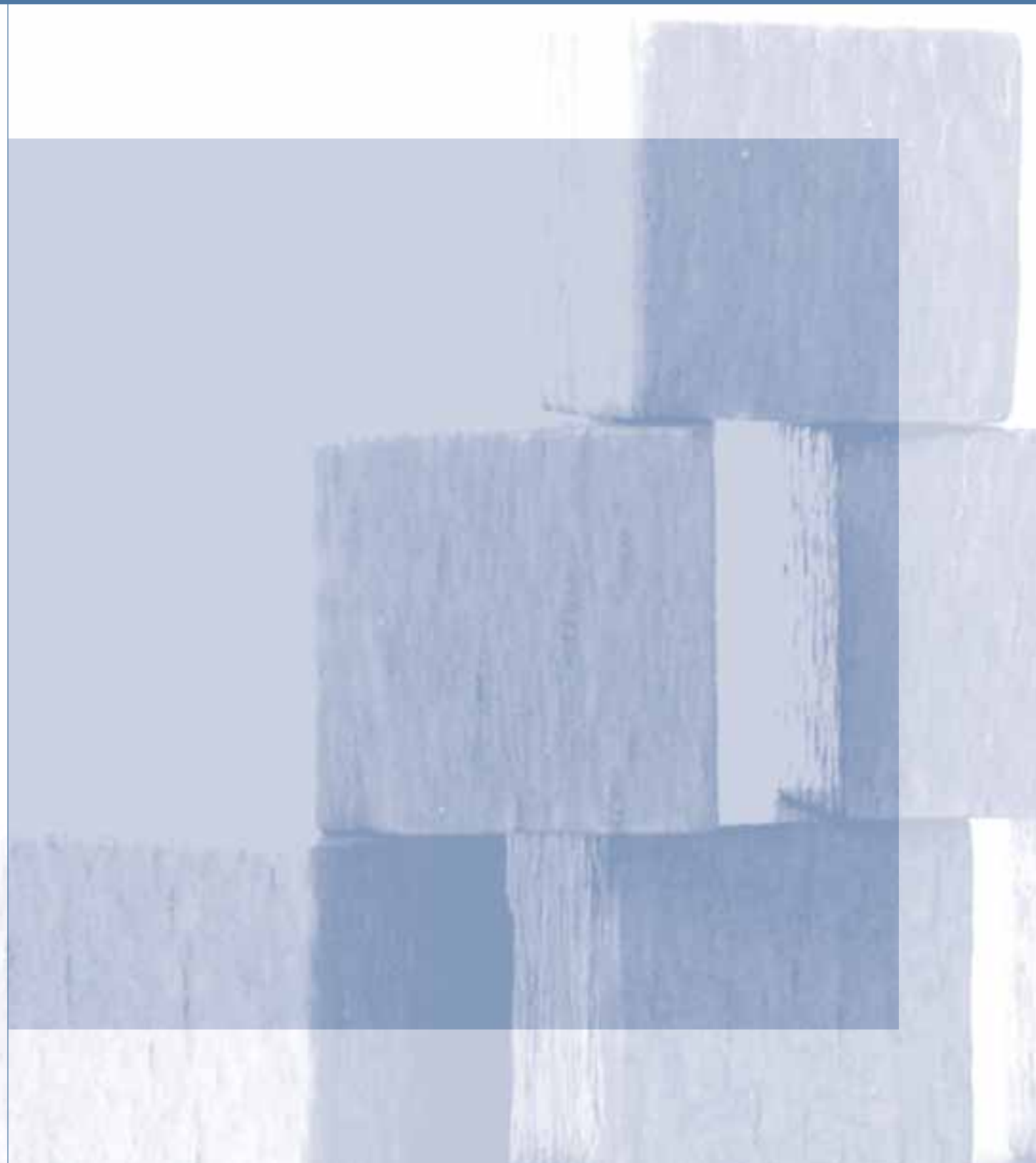


Peter A. Tinsley,
Chair

Canada

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MESSAGE FROM THE CHAIR

It is a pleasure to welcome you to the Military Police Complaints Commission 2005 Annual Report.

My appointment as Chair of the Commission came very late in the 12-month period covered by this Report; however, my background with both the military justice system and independent oversight of law enforcement has led me to follow the work of the Commission with interest since its inception in 1999. I am delighted to have been granted the privilege of leading an organization that displays such a strong and successful commitment to maintaining the sometimes difficult balance between administrative efficiency and the provision of effective, impartial oversight of Canadian Forces military police.

As highlighted by the late Right Honourable Brian Dickson, independent oversight is an important and integral component of the successful delivery of policing services today. The fundamental purpose of oversight agencies is to aid in the promotion of confidence in the police. Despite the continued resistance of a few, this fact is, in my experience, now recognized by the majority in the policing profession.

This Report records that the Commission continued to make significant improvements in all aspects of its operation during 2005. A new service delivery model based on teamwork, multi-tasking and flexibility has been put in place and an organization-wide strategic planning exercise allowed the Commission to bring a new clarity to its mission and vision.

As with any oversight agency, the Commission cannot carry out its mandate without the cooperation of the Canadian Forces, particularly the military police themselves. This past year brought a commitment to improve communication, resulting in a more positive and productive relationship between the Complaints Commission and the leadership of the military police. The Commission is grateful to the Vice-Chief of the Defence Staff and the Canadian Forces Provost Marshal for their participation and commitment to this process. The benefits are already being demonstrated in the efficiency with which the Commission is able to resolve complaints. I look forward to strengthening these relationships in the months and years ahead.

In order to provide effective oversight and ensure the accountability that Canadians demand of their law enforcement agencies, a functional, professional relationship between the oversight body and the police is essential. This is no less the case for military police than for any other police service. The Complaints Commission must understand the unique demands placed on members of the military police. They are police officers, but they are also soldiers, with all of the responsibilities and duties inherent to both professions, which are inextricably intertwined.

The basic accepted elements of modern independent oversight of law enforcement – fairness and transparency – do not change as they are transposed from a civilian to a military policing context. The process must be fair, both to those who make complaints and to those who are the subjects of complaint. Transparency demands that the oversight body be informed of all complaints about police conduct, and the oversight body – not the police – must decide whether a particular complaint is best dealt with as an internal police matter.

While it is reasonable for the police service itself to investigate most complaints about police conduct, the oversight body should have the authority to review and monitor the investigations to ensure fairness and transparency. In cases where the oversight body conducts the investigation, it needs to have the powers to ensure a thorough investigation. While informal resolution of complaints against police is frequently

appropriate and desirable, this process also must be subject to independent oversight by the Complaints Commission to ensure the terms of informal resolution are sound and that all sides have been treated fairly.

In beginning my term as Chair of the Complaints Commission, I understand that there is room for progress in these and other matters. I am committed to building on the efforts of my predecessors to ensure that the Commission has the capacity and authority to provide effective oversight of military police. This will help to ensure that Canadians have confidence in a Canadian Forces military police service that is recognized as being of the highest professional calibre.

In closing, I should like to extend my sincere thanks to Mr. Henry Kostuck for his leadership as Interim Chair of the Commission over the past year. I also want to express my gratitude to the staff of the Commission for offering such a warm welcome, and for their invaluable assistance in preparing me for my responsibilities as Chair.

Peter A. Tinsley
Chair

- “Independent oversight is especially important for the military police and, in this regard, civilian oversight of police forces is particularly instructive. If an individual citizen complains to a civilian police force about improper conduct of its personnel, there is an expectation of and a right to a response. The situation should be no different in the military context.”

The Right Honourable Brian Dickson
Chief Justice, Supreme Court of Canada (1984-1990)

THE MILITARY POLICE COMPLAINTS COMMISSION OF CANADA

The Military Police Complaints Commission (the “Commission”) was established by the Government of Canada on December 1, 1999 to provide independent, civilian oversight of Canadian Forces military police. It reports to Parliament through the Minister of National Defence.

Independent oversight of police services is common across Canada, and is an international benchmark of police accountability to citizens and to democracy. Where independent oversight exists, improvements occur in the community’s confidence in the professional standards of its police service.

The Commission’s mandate is to monitor the investigation and disposition of complaints about military police conduct by the Canadian Forces Provost Marshal, to independently investigate such complaints, as appropriate, and to investigate allegations of interference in military police investigations.

The recommendations that result from the Commission’s reviews and investigations build on the professionalism demonstrated by Canada’s military police service and serve to guarantee the integrity and independence of the military police. This, in turn, serves both the Canadian Forces and Canadians by helping to inspire and maintain confidence in Canada’s military police, an integral and important part of the military justice system.

- “The police are the public and the public are the police; the police being only members of the public who are paid to give full time attention to duties which are incumbent on every citizen in the interests of community welfare and existence.”

Sir Robert Peel (1788-1850)
Founder of Modern Policing

COMPLAINTS ABOUT POLICE CONDUCT

Anyone may file a complaint about the conduct of military police with the Complaints Commission, the Canadian Forces Provost Marshal (CFPM), the Judge Advocate General, or any member of the military police. Regardless of where they are filed, the CFPM is responsible for the investigation and resolution of conduct complaints in the first instance, and the Commission monitors this process.



At the conclusion of a complaint process, if the complainant is not satisfied with the way it was handled by the CFPM, he or she may ask the Commission to review the complaint investigation and resolution.

At any stage, if the Chair decides it is in the public interest, the Commission may assume responsibility for the investigation of a particular complaint. In exceptional cases, the Chair may call a public hearing into a complaint.

Once the Commission has completed its work, the Chair prepares an Interim Report of findings and recommendations for resolving the complaint and making changes to military police procedures or policies to prevent a recurrence of the situation that led to the complaint.

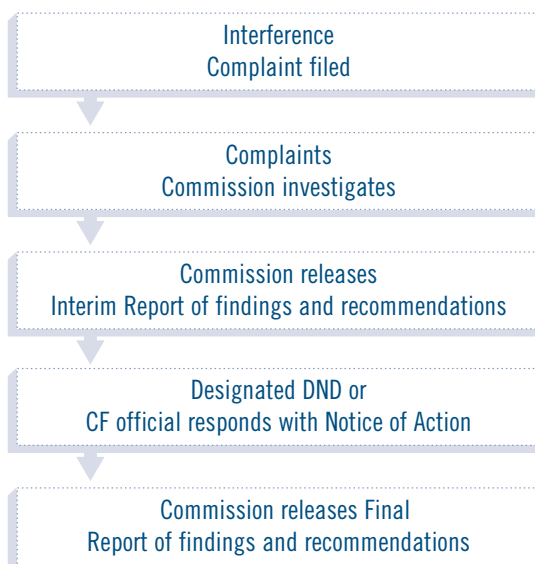
Depending on the nature of the complaint, the Interim Report is forwarded, as appropriate, to the Minister of National Defence, the Chief of the Defence Staff, the Deputy Minister of National Defence, the Judge Advocate General and the Canadian Forces Provost Marshal. One of these officials, depending on the nature of the complaint, is required to respond to the Chair of the Commission and the Minister with a Notice of Action, which must describe any action that has been taken or will be taken with respect to the complaint. While the Chair's recommendations are not binding, the decision not to act on any of them must be explained in the Notice of Action to the Chair and the Minister.

After considering the Notice of Action, the Chair prepares a Final Report of findings and recommendations. The complainant and the person who was the subject of the complaint receive copies of the Final Report, as do senior officials of the Canadian Forces and the Department of National Defence, including the Minister.

INTERFERENCE COMPLAINTS

To safeguard the integrity and independence of the military police, the Commission also investigates when a member of the Canadian Forces (CF) or a senior official in the Department of National Defence (DND) is alleged to have interfered with a military police investigation. Only members of the military police may file an interference complaint, and the Commission has exclusive jurisdiction over the investigation of this type of complaint.

A full description of the complaints process may be found on the Commission's website, at www.mpcc-cppm.gc.ca or by contacting the Commission directly.



2005 HIGHLIGHTS

The Complaints Commission is committed to providing independent oversight of military police in a manner that is fair, effective and efficient. To achieve these objectives, the Commission strives to improve client service, enhance its working relationships with Canadian Forces authorities and meet or exceed the management standards expected of an agency of the Government of Canada. This section describes some of the Commission's accomplishments in this regard over the past year.¹

IMPROVEMENTS TO CLIENT SERVICE DELIVERY

The Military Police Complaints Commission is a service organization. In 2005 the Commission renewed its commitment to service delivery, with a particular focus on ensuring that its primary clients – the individuals who have filed complaints or who are the subjects of complaint – are dealt with in a fair and transparent manner.

Research

The Commission's efforts to improve service this past year have been guided in large part by the findings of a survey of stakeholders conducted on the Commission's behalf by an external consultant. Informed by the survey results, the Commission built a stronger, organization-wide commitment to service; developed an action plan to increase awareness of its services among key stakeholder groups and Canadians at large; and explored new areas in which the Commission and the Canadian Forces Provost Marshal could work cooperatively to improve service. The Commission plans to repeat the stakeholder survey in fiscal year 2008-09 in order to measure the success of these initiatives.

New Service Standards

In fairness to both the subjects of complaint and those who have filed complaints, the Commission tries to resolve matters as quickly as circumstances permit. The length of time necessary to complete a review or an investigation of a complaint can vary according to a number of factors, including the complexity of the situation that gave rise to the complaint, the availability of witnesses and so on. As part of its continuing effort to improve the efficiency of the complaints process, the Commission adopted new service standards and timelines for the resolution of complaints in 2005.

By breaking the process down into 23 separate steps – from the receipt of a request for review to issuing the Final Report – and assigning an optimum time for the completion of each step, the Commission has set clear goals for itself, and is better able to anticipate and address potential delays in the process. Indeed, in 2005, more cases were completed in less time than in any previous year in the Commission's history. The staff of the Commission has worked diligently to adhere to these new standards. The Canadian Forces Provost Marshal and the Deputy Provost Marshal-Professional Standards must also be recognized for their cooperation in giving greater priority to completing investigations and preparing Notices of Action in response to the Commission's findings and recommendations.

The Commission also took steps to streamline its reports on cases, making them more accessible to complainants and the subjects of complaints.

¹ This annual report covers the calendar year 2005, but in accordance with the accounting practices of the Government, financial data for the fiscal year April 1, 2005 to March 31, 2006 is reported.

STAKEHOLDER RELATIONS

Visits to Canadian Forces Bases

Military police are stationed across Canada and around the world, making establishing and maintaining awareness of its mandate and activities an ongoing challenge for the Complaints Commission. For this reason, Commission staff try to visit as many Canadian Forces Bases as time and resources permit. These visits would not be possible without the cooperation of Wing and Base commanders, base personnel, military police officers and members, the staff of Military Family Resource Centres, and others.

During 2005, Commission staff visited a dozen bases across Canada, meeting and exchanging information with its three key audiences:

- members of the military police, who are most affected by the process whether as subjects of complaint or as potential complainants;
- the military chain of command, which relies on the services of MPs in the maintenance of military discipline and exercises command over them, but which must not interfere with police investigations; and,
- those who may interact with military police because they live, work or pass through a military base. The Commission's connection to this latter group is often made through the Executive Directors and staff of the Military Family Resource Centres and Housing Authorities at each base.

Beyond increasing awareness of its mandate and activities, base visits are the Commission's greatest opportunity to hear and address concerns about the complaints process. Through formal presentations and informal discussion, Commission staff reinforce the message that *independent oversight of law enforcement is not an indication of problems, but rather a sign of the strength of the military police organization.*

FAQ:

Can complaints be resolved informally?

Yes. In fact, the Canadian Forces Provost Marshal (CFPM) is required to consider whether it would be appropriate to try to resolve a given complaint informally. If the CFPM believes informal resolution is appropriate, both parties to the complaint must consent in order to proceed informally.

There are some exceptions: the *National Defence Act* prohibits the use of informal resolution for some types complaints; for example, complaints relating to excessive use of force, corruption, commission of an offence, and so on. Informal resolution is also not an option when the CFPM judges and accordingly refuses a complaint as being "frivolous, vexatious or made in bad faith." The CFPM's decision can be reviewed by the Commission.

Informal resolution is a welcome part of the modern trend in police oversight, and the Complaints Commission strongly supports its use. The Commission is developing its own framework for informal resolution that may be useful in resolving interference complaints and at the review stage of conduct complaints.

2005 HIGHLIGHTS

The chain of command and those who come into contact with military police can have greater confidence in the military police service, knowing that it is subject to independent oversight. Confidence may be further enhanced by knowing that the Commission draws on best practices from other police services in Canada and elsewhere as it formulates its recommendations.

Working with the Canadian Forces

Maintaining a professional and effective working relationship with the Canadian Forces is a priority because the Commission relies on their cooperation and support in order to complete its reviews and investigations of complaints in a timely manner.

While disagreement on certain issues is almost inevitable in the oversight of law enforcement, it is important that this does not colour the entire relationship and jeopardize the contribution of the oversight agency to assure the public of the highest standards of conduct by police.



FAQ:

What is the difference between a Professional Standards investigation and an investigation by the Complaints Commission (MPCC)?

The Canadian Forces Provost Marshal is responsible for the investigation when a conduct complaint is filed. These investigations are carried out by the Deputy Provost Marshal Professional Standards – this is a Professional Standards investigation. The MPCC monitors complaint investigations conducted by Professional Standards. If a complainant is not satisfied with the results of that process, a review by the Complaints Commission can be requested – this is an MPCC investigation.



FAQ:

Do military police members have access to any assistance during the complaints process?

Yes. The Military Police Policies provide that all MPs who are the subject of an investigation into possible breaches of the *Military Police Professional Code of Conduct* are entitled to request his or her commanding officer to appoint an Assisting Officer. This Assisting Officer is intended to help ensure that the subject member is fully informed about the complaint investigation process and may accompany the member during any interview regarding the complaint. It is important to note that this does not mean access to a lawyer. Subjects of complaint would be entitled to a lawyer at public expense only in the case of a public hearing held by the Commission, and costs would be covered in accordance with Treasury Board policy. These requirements are stipulated in the Treasury Board policy and the Commission has no say in deciding whether the subject of a complaint is entitled to a lawyer at public expense.

The enhanced working relationships with Canadian Forces authorities led to measurable improvements in client service, such as the above-noted improvement in the time it took the Commission to resolve complaints during 2005.

The Commission and the Canadian Forces have committed to maintaining regular contact in the coming year and to jointly holding a special conference planned for February 2006. This conference will provide an opportunity to discuss issues of shared concern and to consider additional ways that the Commission and the Canadian Forces can work together to enhance the effectiveness of the complaints process.



FAQ:

What type of conduct complaints does the Complaints Commission typically receive?

The Commission receives a wide variety of conduct complaints relating to the policing duties or functions of members of the military police. These complaints can include matters related to the conduct of an investigation, the laying of a charge, the enforcement of laws, etc.

Some examples of conduct complaints received by the Commission can be found in the "Case Summaries" section of this Annual Report as well as in the "Publications" section of the Commission's website: www.mpcc-cppm.gc.ca

THE WEBSITE

The first contact that many people have with the Commission is through its website (www.mpcc-cppm.gc.ca). In recognition of its importance in providing information about the complaints process and the Commission's services, the website's content and structure are subject to ongoing review and improvement. A number of updates were executed in 2005, including the addition of a "make a complaint" button on the sidebar of each page on the site.

Working with the civilian oversight community

Civilian oversight of law enforcement is a relatively new discipline and its practices continue to evolve from its beginnings in the middle part of the 20th century. Commission staff are active in the civilian oversight community in Canada through membership in the Canadian Association for the Civilian Oversight of Law Enforcement (CACOLE). The Commission's General Counsel and Secretary is currently serving as Vice-President of CACOLE and worked with a similar association in the United States. This professional interaction allows the Commission to exchange information on best practices with their counterparts in other agencies, and keep abreast of new developments in civilian oversight in Canada and around the world.

BUILDING CONFIDENCE BY IMPROVING EFFECTIVENESS

Updating Civilian Oversight of Canada's Military Police: Achieving Results for Canadians

Over the six years of its existence, the Commission has identified statutory, regulatory, policy, and operational constraints that have a very real impact on the effectiveness of civilian oversight of military policing.

These issues (described below) have been raised both formally and informally over the past several years. The Commission wishes to work with its stakeholders, including military police, the Canadian Forces Provost Marshal, the Canadian Forces, and the Department of National Defence, to develop options for addressing these matters, such that they can collectively meet their shared objective of maintaining and enhancing the confidence of Canadians in the military police.

Fairness for subjects of complaints –

At this time, the military police member who is the subject of a complaint does not have the right to request the Commission to review the disposition of that complaint by the Canadian Forces Provost Marshal. It is only the complainant who may do so.

Disclosure –

There continue to be very different perspectives held by the Commission and the Canadian Forces about disclosure of information related to complaints. One relates to the interpretation of the term “record of complaint”, to which the Commission is entitled, and another relates to whether the terms of agreement of informal resolution of complaints ought to be shared with the Commission.

Scope –

Complaints about military police duties or functions that relate to administration, training, or military operations that result from established military custom or practice are specifically excluded from the complaints process. These exceptions mean that military police are not subject to civilian oversight for their conduct in significant areas of their responsibility.

Powers –

While the Commission has the power to conduct an investigation of a conduct complaint as a matter of public interest, it does not have the authority to compel testimony or the production of evidence in such an investigation, nor can witnesses be assured that any statements they make during the investigation would not be used against them in some future proceeding. This significantly hampers the ability of the Commission to conduct an investigation. The Commission does have this authority in the event that the Chair calls a public hearing - a step that is both exceptional and costly.

Interference Complaints –

Although there are very few complaints filed with the Commission about interference in police investigations, feedback during visits to bases indicates that there may be more instances than are reported. Fear of reprisals and career risks have been cited as reasons why military police would not make interference complaints. This is a complex matter and will require several issues to be addressed by the Commission and its stakeholders.

For further description, see the September 2005 Special Report, "Updating Civilian Oversight of Canada's Military Police: Achieving Results for Canadians", www.mpcc-cppm.gc.ca/300/300_e.html

BUILDING CONFIDENCE BY IMPROVING EFFECTIVENESS

ADMINISTRATION AND MANAGEMENT

Building on significant changes implemented in 2004, which included a major realignment of its management structure and a substantial downsizing, the Commission continued to refine and improve its operating practices during 2005, recording a number of notable achievements. For example:

- Improved service was a focus of a Strategic Planning Session held in Gatineau, Quebec, in March of 2005. All staff members participated actively in the two days of discussions, offering their thoughts on the organization and its direction. Staff re-visited the Commission's Mission, Vision and Value statements and revised these statements to more closely depict what the Complaints Commission means to them, to Canadian Forces military police, and to Canadians. They established a series of strategic objectives, setting a clear course for the future of the organization and detailing what must be accomplished in both the short and longer terms in order to fulfill the Commission's Mission and Vision.
- The Commission implemented all of the recommendations arising from an audit of its staffing practices completed by the Public Service Commission in October of 2004.
- The Commission implemented the first and second phases of the *Public Service Modernization Act* (PSMA). This involved meeting the requirements of a new *Public Service Labour Relations Act*, such as establishing an informal conflict management system and formalizing the terms of reference of the existing Labour-Management Consultation Committee. The Commission complied with amendments to the *Financial Administration Act* and fully implemented the changes in staffing required by the PSMA by December 2005.
- The Commission launched the process of activity-based costing for key activities, and completed a risk-based internal audit plan. This plan was reviewed and approved by the Comptroller-General, and ensures that the Commission meets the requirements of the Government of Canada's new internal audit policy.
- The Commission carried out a preliminary self-assessment against the elements and indicators of the Management Accountability Framework, and completed a threat and risk assessment, the first step in the development of a business continuity plan.

Financial Management

In budgetary matters, the Complaints Commission reduced its overall financial requirements by almost 20 per cent during 2005-06. These savings are already being realized, but the permanent reduction of \$760,000 in the Commission's reference levels will not be formalized until the 2006-2007 fiscal year. The Commission's reduced funding requirement was included in the Supplementary Estimates tabled in the fall of 2005, but Parliament was dissolved before considering the Estimates. *(Additional financial data can be found at Annex C of this Report.)*

The Commission realized additional cost savings by redesigning its office layout and finding another government department to occupy – and pay for – the resulting surplus office space.

Human Resources

The Commission continued its efforts to ensure that it remains a workplace of choice for current and future employees. Among other initiatives, a new Learning Policy was implemented to assist employees in pursuing their professional and career goals, and to help to assure the Commission of a well-trained workforce into the future. A new Employee Guide provides staff with a convenient way to familiarize themselves with the Commission's policies and procedures, and the roles and responsibilities of each position in the organization. The Commission launched an Awards and Recognition Program to acknowledge the efforts of its employees.

COMPLAINTS

INTRODUCTION

The statutory mandate of the Military Police Complaints Commission is found in Part IV of the *National Defence Act*, “Complaints About or By Military Police”. Under this Part of the Act, the duties of the Commission can be divided into four primary areas of responsibility:

- monitoring the handling of complaints by the Canadian Forces Provost Marshal;
- reviewing investigations of conduct complaints by the Canadian Forces Provost Marshal (which often include an investigation by the Commission);
- investigating interference complaints; and,
- conducting Commission investigations or hearings of conduct and interference complaints when the Chair deems it to be in the public interest.

Whether monitoring investigations, reviewing complaints or conducting its own investigations or hearings of complaints, the Commission

acts as a neutral third party. The objective is to ensure that all parties are treated fairly.

The Commission represents only the public interest, seeking to determine the facts, state its findings, and make recommendations aimed at improving military policing.

ACTIVITY

During 2005, the Commission monitored the Canadian Forces Provost Marshal’s handling of more than 50 complaints about the conduct of military police. Five complainants asked the Commission to review the way their complaints had been handled by the Canadian Forces Provost Marshal (CFPM), and the Commission received one complaint of interference from military police. The Commission has launched a public interest hearing on the matter of a conduct complaint of a particularly serious nature surrounding the involvement of military police in a sexual assault investigation. The outcome of this process will be reported on in the next annual report.

Activity	2000	2001	2002	2003	2004	2005	TOTAL
Conduct Complaints Monitored	55	64	65	34	46	52	316
Interference Complaints received	1	1	2	∅	2	1	7
Review Requests received	1	10	6	2	8	5	32
S.250.38 Public Interest Investigations/Hearings Commenced	2	2	2	∅	2	1	9
Files	59	77	75	36	58	59	475
Interim Reports	1	5	15	4	4	11	40
Final Reports	N/A	3	16	5	2	12	38
Findings	N/A	33	180	207	131	243	794
Recommendations	N/A	8	60	46	36	42	192

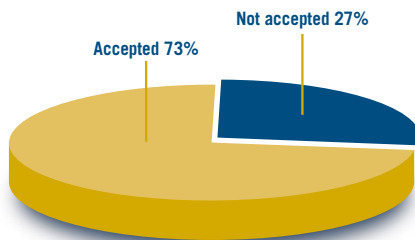
Types of Allegations Contained in Conduct Complaints filed in 2005

(As set out in the *Complaints About the Conduct of Members of the Military Police Regulations**)

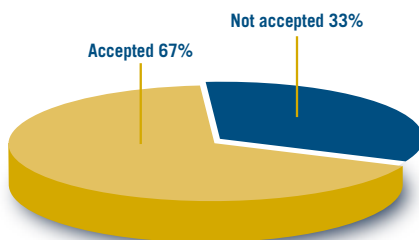
Regulation 2(1)(a) the conduct of an investigation	53
Regulation 2(1)(b) the rendering of assistance to the public	13
Regulation 2(1)(c) the execution of a warrant or another judicial process	13
Regulation 2(1)(d) the handling of evidence	12
Regulation 2(1)(e) the laying of a charge	9
Regulation 2(1)(f) attendance at a judicial proceeding	0
Regulation 2(1)(g) the enforcement of laws	17
Regulation 2(1)(h) responding to a complaint	6
Regulation 2(1)(i) the arrest or custody of a person	4

* Under the *National Defence Act*, only complaints about the conduct of military police in the performance of the nine "policing duties and functions" listed here are subject to civilian oversight by the Complaints Commission. Complaints about military police duties or functions that relate to administration, training, or military operations that result from established military practice are specifically excluded from the Commission's jurisdiction.

Acceptance of Commission's Recommendations: 1999-2005



Acceptance of Commission's Recommendations: 2005



The Commission also received a number of complaints about the conduct of military police in 2005 that, because the conduct in question did not relate to the performance of the policing duties and functions set out in the regulations, were found to be outside the jurisdiction of the Commission. These complaints were referred to the CFPM for information and appropriate action.

CASE SUMMARIES

In 2005, the Complaints Commission issued a total of 11 Interim and 12 Final Reports of its reviews and investigations, including a public interest investigation initiated in 2004 and concluded in 2005. The Commission made a total of 42 recommendations in its Final Reports, two-thirds of which were accepted by the Canadian Forces Provost Marshal.

The cases summarized here are intended to provide a sample of the type of complaints the Commission is called upon to review or investigate. These cases also demonstrate how the Commission's reviews often bring to light other issues of a systemic nature that, when addressed, may help prevent a recurrence of a particular problem in the future.

CASE No. 1

PUBLIC INTEREST INVESTIGATION

Incident and Complaint

In April 2004, a group of young people was waiting for a bus at a public transit stop outside a Department of National Defence building. A member of the military police (MP) was monitoring video surveillance of the area around the building and saw what he suspected to be an exchange of narcotics between two of the youths. As this appeared to have taken place on National Defence property, other MPs were called in to detain and search all of the youths.

Following this incident, parents of two of the young people wrote separate letters to the Canadian Forces Provost Marshal, questioning the grounds for the detention and search, and whether military police had jurisdiction in the matter, as the youths may or may not have been on National Defence property.

The response by the Canadian Forces Provost Marshal

An investigation into the complaints by the Deputy Provost Marshal-Professional Standards (DPM-PS) concluded that the MPs were acting within their jurisdiction; that the detention and search was legitimate and proper; and that none of the youths' rights had been violated.

This investigation did note that, because of poor communication among the MPs involved, two of the youths – one of those whose parents complained – were wrongly subjected to a more thorough and intrusive search than the others. The DPM-PS directed the military police detachment to which the MPs were posted to ensure that the powers of search and various search techniques were included as part of routine annual training for its members.

The decision to call a Public Interest Investigation

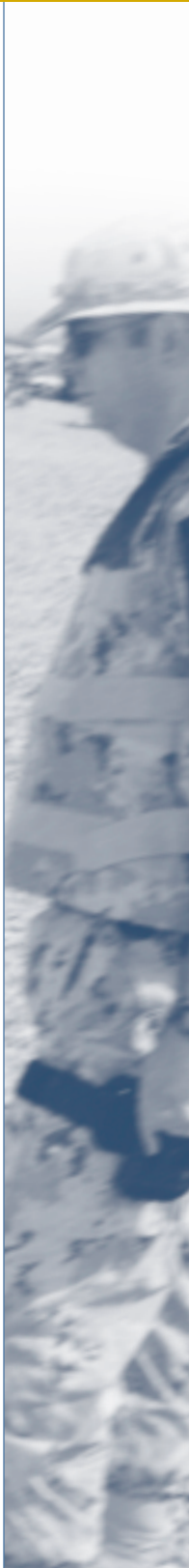
During the course of the DPM's investigation, the Chair decided to hold an independent investigation into this incident based on a number of considerations, including:

- the possibility that the youths' constitutional and statutory protections against unreasonable detention and search may have been violated;
- whether existing military police policies and procedures related to the detention, questioning and search of young persons are clear and in keeping with the requirements of the *Charter of Rights and Freedoms* and the *Youth Criminal Justice Act*; and
- the connection between military police conduct in their dealings with civilians and public confidence in military police.

The Findings of the Commission's Public Interest Investigation

While military police policies and procedures concerning detention and search were found to be consistent with the provisions of both the Charter and the *Youth Criminal Justice Act*, the Commission determined that, in this instance, these policies and procedures were not followed.

MPs should have informed the youths of their right to counsel before searching them, particularly in the case of the two who were subjected to a so-called "body search", which involves a thorough search of the person's clothing. The Commission found this to be excessive and, since neither was advised of their right to counsel before submitting to this more intrusive search, it was also decidedly improper. Although the youths' constitutional rights had been breached, the Commission found that the MPs' mistakes were made in good faith and that additional training was the appropriate remedy, consistent with the findings of the DPM-PS.



CASE SUMMARIES

The Commission investigation also found that the DPM-PS named only the highest-ranking MP involved in the incident as a subject of the complaint at the beginning of the investigation. Given their part in the incident, the Commission found that the other MPs involved should have been advised at the outset that they were potential subjects as well.

The CFPM accepted the Commission’s recommendation that the question of who should be a subject of a particular complaint should be considered carefully at the earliest stage of an investigation. This will help to enhance the fairness of the complaints process by giving all potential subjects of complaint a reasonable opportunity to respond to any findings that may be adverse to their interests.

Conclusion

The Commission Report noted the considerable impact of this detention and search on the two young people involved. Neither was in possession of narcotics, nor were they seen to be engaging in any sort of illegal activity, yet they were detained and subjected to an intrusive search that was excessive and improper. Both they and their families were upset, and justifiably so. The Commission supported the decision of the Deputy Provost Marshal-Professional Standards to issue formal letters of apology to both families.

- “I cannot emphasize enough the importance of independent oversight of the military police. Oversight is essential to promote confidence in the investigative process and to ensure that both complainants and members of the military police are dealt with impartially and fairly.”

The Rt. Hon.
Antonio Lamer,
Former Chief Justice
of Canada

CASE No. 2

REVIEW OF CONDUCT COMPLAINT

Incident and Complaint

A man and his wife, both civilians, were driving through Department of National Defence property after dark when a member of the military police (MP) pulled them over for speeding. During the traffic stop, concerned that he might be accused of harassment by the couple, the MP called in a second member of the military police to act as a witness to the event.

The man filed a complaint about the conduct of both MPs, alleging that the first MP did not properly identify himself either by name or as a member of the military police; deliberately hid his face; and used the combination of darkness and the blinding lights of his patrol vehicle to further shield his identity and that of the second MP.

The complainant also alleged the MP behaved in a menacing and confrontational manner.

Response by the Canadian Forces Provost Marshal

The DPM-PS investigation concluded that the first MP had acted in a confrontational manner, and the MP was directed to receive guidance regarding the proper tone and demeanour to be adopted in similar situations in the future.

The DPM-PS investigation did not find any evidence that either MP made a deliberate attempt to conceal their identity or their status as police.

Not satisfied with these findings, the complainant asked the Commission to review the complaint.

Review by the Complaints Commission

The Commission's review generally supported the findings of the DPM-PS investigation, and agreed that the remedial measures directed by the DPM-PS were appropriate in the circumstances.

The Commission also agreed with the DPM-PS finding that many of the allegations in this complaint appear to have resulted from the complainant's unfamiliarity with police procedures.

CASE SUMMARIES

While the MP conceded he could have reacted more calmly when the couple left their vehicle on two occasions, military police procedure for traffic stops (as is true for virtually all police services) states that, for the safety of all concerned, “if the violator or passenger gets out of the car, request that they return to their vehicle.”

Similarly, actions perceived as attempts by the MP to conceal his identity were, in fact proper procedure. For their own safety during traffic stops, military police are instructed to stand to the rear of the driver’s door of the stopped vehicle. Procedure also calls for the patrol vehicle’s lights and emergency signals to remain in operation, in order to illuminate the scene and to warn other traffic. As for concealing the identity of the second MP who arrived on the scene, procedure dictates that if two MPs are present, “one must remain near the patrol vehicle in a protected position where observation can be maintained and coverage provided.”

While calling a second MP to the scene was interpreted as intimidation by the complainant, this too is procedure: when a patrol vehicle is not equipped with a video recording system, MPs are instructed to ask another MP to act as a witness to potentially controversial incidents.

In an additional finding, the Commission noted that, along with the report of Findings and Actions issued to the complainant and the MPs involved, the DPM-PS sent a second report to the two MPs. This report pointed out a number of other deficiencies in the MPs’ conduct that came to light as a result of the DPM-PS investigation into the complaint, and directed that the two MPs undergo refresher training to correct these deficiencies.

The Commission found that, had this information also been given to the complainant, it would have provided additional assurance that the complaint had been investigated thoroughly and that all appropriate action was being taken in response.

The Canadian Forces Provost Marshal accepted the Commission’s recommendation to this effect, and made a commitment that all relevant information, with the exception of purely administrative matters, will be included in all future reports to complainants.

Further, as a measure of prevention against this type of complaint in the future, the CFPM agreed with the Commission that this type of scenario be included in routine training for all military police.

CASE No. 3

REVIEW OF CONDUCT COMPLAINT

Incident and Complaint

During the course of an investigation related to alleged theft of computer equipment, members of the Canadian Forces National Investigation Service (the CFNIS – a specialized arm of the military police) went to the office of a sergeant in the Canadian Forces, arrested her for obstruction of justice, and led her from her workplace in handcuffs.

Some months later, after learning she would not be charged, the Sergeant filed a complaint alleging – among other things – that the CFNIS investigators had arrested her without justification, attempted to intimidate her and, by arresting her at her place of work, humiliated and embarrassed her.

Response by the Canadian Forces Provost Marshal

An investigation by the Deputy Provost Marshal-Professional Standards (DPM-PS) found that the conduct of the Canadian Forces National Investigation Service (CFNIS) investigators fell well short of the standard expected of senior members of the military police:

- the Sergeant was arrested without reasonable and probable grounds;
- military police tried to intimidate her into continuing an interview even after she had exercised her right to remain silent; and,
- CFNIS investigators caused needless embarrassment to the Sergeant by arresting her in public, adding to her humiliation with the unwarranted use of handcuffs.

The two MPs named in the complaint were found in violation of both military police policies and the *Military Police Professional Code of Conduct*. The DPM-PS directed both MPs receive formal counselling and undergo remedial training.



CASE SUMMARIES

Complainant's Request for Review

In the request for a review of her complaint, the Sergeant expressed concern that the “counseling and remedial training” directed for the CFNIS investigators seemed “trivial” in comparison to what she had been through, which included being suspended with pay from her job for several weeks.

Review by the Complaints Commission

The Commission's review of this complaint pointed to the difficulties that can arise when complainants are not given a full report of the way their complaint has been handled.

In this case, the two CFNIS investigators (and their superior officers in the chain of command) received a letter detailing a rigorous regime of counselling and remedial training directed by the DPM-PS. The letter to the investigators also said that, had they not been found to be acting in good faith when they arrested the Sergeant, they may well have been suspended. In contrast, the letter to the Sergeant noted only the aforementioned counselling and training, without offering any explanation of what that entailed.

This speaks to both the fairness and the transparency of the process. While the Commission's power to review the handling of conduct complaints is essential to ensuring fairness to all parties, reviews do prolong the period of uncertainty for both complainants and subjects of complaint. In this case, had the Sergeant known the details of the sanctions faced by the two investigators, she might not have felt the need to request a review.

The Commission has noted this problem in previous cases, and is pleased to report that since this case was concluded, the DPM-PS has undertaken to include identical information in the final letters to both the complainant and the subject of the complaint.

- “The ability of the police to perform their duties is dependent upon public approval of police actions.”

Sir Robert Peel,
Nine Principles of
Modern Policing

CONCLUSION

The activities of the Military Police Complaints Commission during 2005 demonstrate the ongoing value of independent oversight of law enforcement for Canada's military police. These achievements do not belong to the Commission alone, but are the result of many people working together toward a common goal.

Measures adopted by the Canadian Forces Provost Marshal as a result of the Commission's findings and recommendations will help to enhance the fairness of the complaints process for both complainants and subjects of complaint, and ensure military police are able to meet the high standard of conduct Canadians expect of their police services.

The efforts of staff and stakeholders together are reflected in the accomplishments of the past year: the working relationship between the Commission and the Canadian Forces has improved dramatically; new service standards are in place and complaints are being resolved more quickly; outreach has been expanded and new partnerships have been established to ensure key stakeholders are aware of the Commission and its mandate; and new

measures are in place to ensure the Commission continues to offer a workplace that is professionally challenging and personally satisfying.

Thus, the Commission enters a new year with a clear vision of an organization that exhibits fairness and impartiality, inspires trust and contributes to a climate of confidence in military policing.



ANNEX A

BIOGRAPHIES



**PETER A. TINSLEY,
CHAIR**

Mr. Peter A. Tinsley was appointed Chair of the Military Police Complaints Commission on December 12, 2005.

Mr. Tinsley is a graduate of McMaster University and the University of Windsor Law School. He is a member of the Law Society of Upper Canada and is thereby licensed to practice law in his native province of Ontario.

Prior to his appointment as Chair of the Complaints Commission, Mr. Tinsley was serving as one of four International Prosecutors appointed by the High Representative in the newly created Special War Crimes Department of the State Court of Bosnia and Herzegovina. Previously, from August 2003 until July 2004, Mr. Tinsley was appointed by the Special Representative of the Secretary General to serve with the United Nations Interim Administration in Kosovo as the International Prosecutor in the Mitrovica District. Also, as part of the ongoing efforts to rebuild the justice system in Kosovo, he served from January until June 2004 as the Chair of the Kosovo Judicial and Prosecutorial Council, an independent body of nationals and internationals responsible for the recruitment and disciplining of new judges and prosecutors.

Prior to his work in Europe, Mr. Tinsley served as the Director of Ontario's Special Investigations Unit. This independent civilian oversight agency was established in 1990 to investigate incidents involving the police resulting in death or serious injury, including sexual assault, and to lay criminal charges where warranted. Mr. Tinsley's specific mandate was to reform and rebuild this historically controversial agency to fulfill its intended role as a mechanism for community confidence. Mr. Tinsley also had a 28-year career in the Canadian Forces, serving in Canada and overseas as a military police officer and later, as a lawyer.



**STANLEY BLYTHE,
CHIEF OF STAFF AND SPECIAL ADVISOR**

Mr. Stanley Blythe has been the Chief of Staff and Special Advisor to the Chair of the Military Police Complaints Commission since August 2003. In this capacity, he manages both the Chair's office and the communications function, as well as leading a variety of strategic projects for the Commission.

Mr. Blythe is a graduate of the Royal Military College and the University of Alberta Law School. He subsequently completed a Master of Laws degree at the University of Ottawa, focusing on constitutional law and human rights.

Prior to joining the Commission, Mr. Blythe worked as the first Court Martial Administrator for the Canadian Forces, where he managed the office of the Chief Military Judge and convened courts martial.

Before entering the federal Public Service, Mr. Blythe was a member of the Canadian Forces for 31 years, including many years as a naval officer, serving primarily in destroyers on Canada's East coast. As a legal officer in the Forces, he worked in various fields including human rights law and information law.

Mr. Blythe has taught courses and delivered presentations to a variety of institutions and organizations on subjects including ethics, information technology security, employment equity, harassment prevention and criminal law.

ANNEX A BIOGRAPHIES



JOHANNE GAUTHIER, GENERAL COUNSEL AND SECRETARY

Ms. Johanne Gauthier was appointed General Counsel of the Commission in September 2001. Since October 2003, she has been carrying out the duties of General Counsel and Secretary of the Commission. In this dual capacity, she is responsible for legal services, operations, administration, finances, human resources, information management and information technology.

Ms. Gauthier has been a member of the Quebec Bar for 15 years and has significant experience in penal, administrative and constitutional law, as well as in investigations and police ethics.

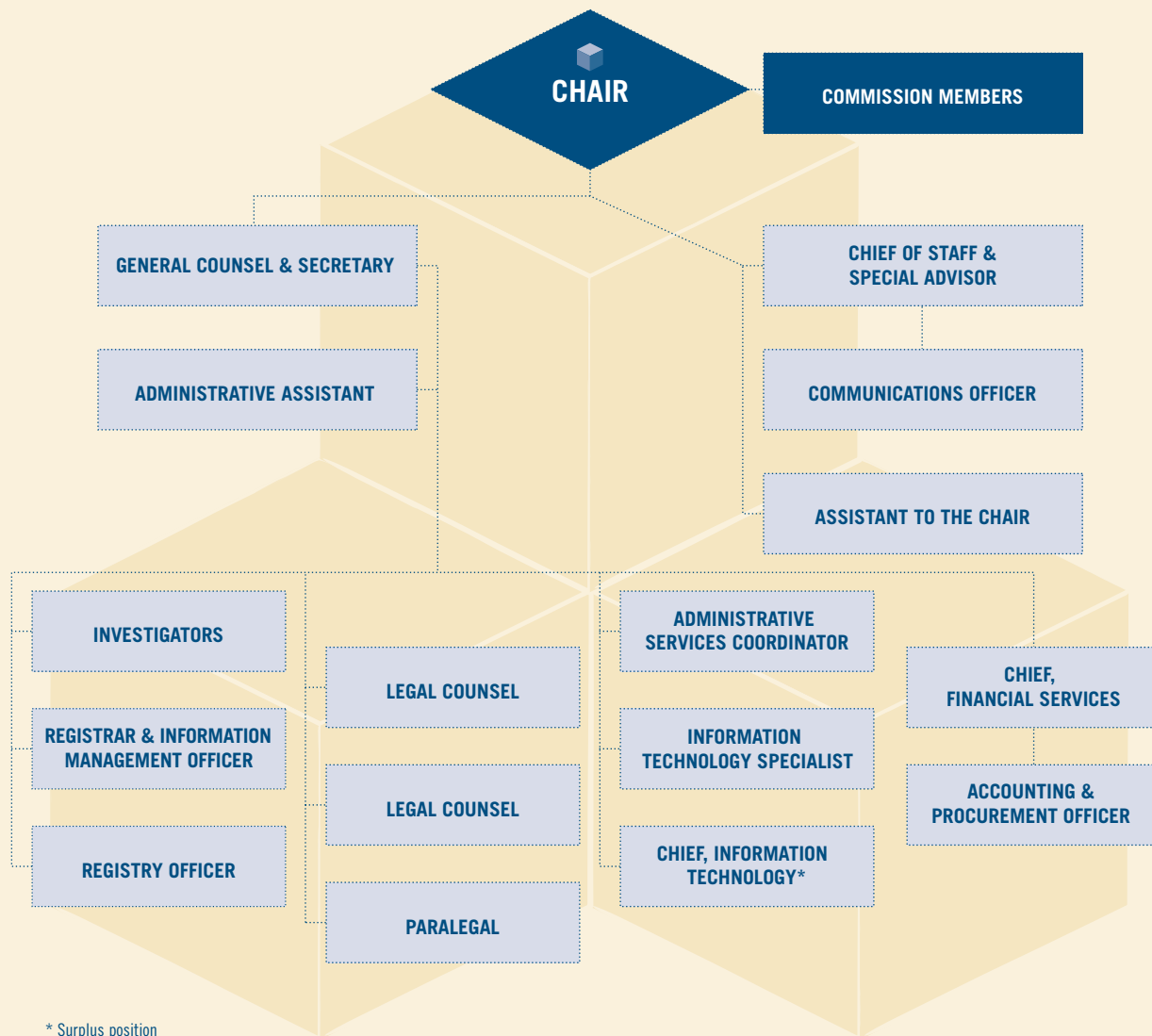
Before joining the Commission, Ms. Gauthier was a civilian member of the Royal Canadian Mounted Police, holding various positions with increasing responsibilities, including national Senior Prosecutor and Manager of Internal Affairs for Quebec and Ontario, where she was in charge of internal investigations, public complaints, disciplinary proceedings and labour relations. She supervised a team of more than 30 lawyers, police officers and specialists working in four different cities. Ms. Gauthier has also worked in private practice, for Quebec's Department of Justice, for the federal Department of Justice and for Canada's Commissioner of Official Languages.

She is a member of the Small Agency Administrators' Network and of the Canadian Bar Association, as well as Vice-President of the Canadian Association for Civilian Oversight of Law Enforcement.

ANNEX B

ORGANIZATIONAL CHART

THE MILITARY POLICE COMPLAINTS COMMISSION OF CANADA



ANNEX C

FINANCIAL SUMMARY

Actual Use of Budget Allocation – 1 (in thousands of dollars)

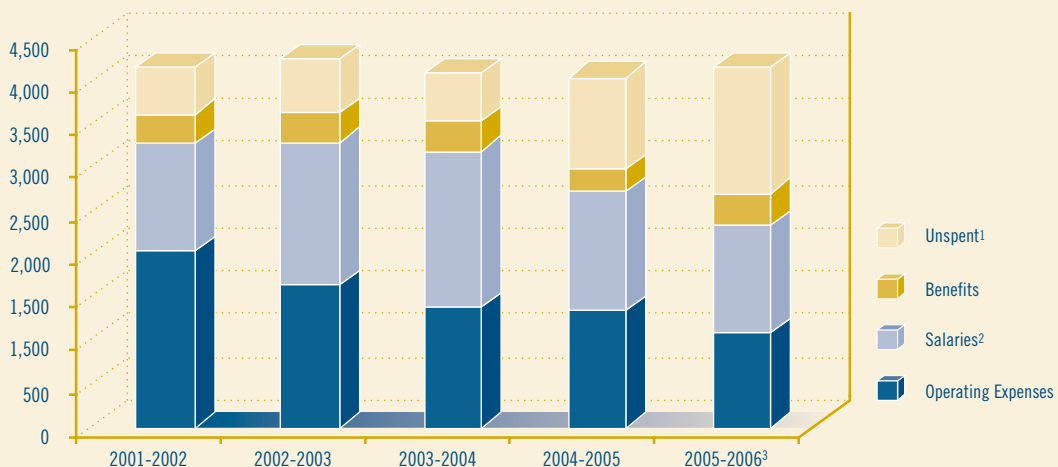
Fiscal Year	Operations	Salaries	Benefits Spending	Total Allocation	Budget	Unspent ¹
2001-2002	2,036	1,250	348	3,635	4,176	541
2002-2003	1,654	1,655	332	3,642	4,278	636
2003-2004	1,380	1,831	334	3,566	4,126	560
2004-2005	1,346	1,391	248	2,985	4,064	1,079
2005-2006 ²	1,090	1,245	385	2,720	4,176 ³	1,456

1 Returned to federal treasury

2 Planned spending

3 The Commission requested in 2005-2006 a permanent reduction of \$760,000 in its budget, but Parliament was dissolved before the request was approved. Although these savings are already being realized, and all surplus funds will be returned to the federal treasury, the Commission's budget allocation will not be formally and permanently reduced until fiscal year 2006-2007.

Actual Use of Budget Allocation – 2 (in thousands of dollars)



1 Returned to federal treasury

2 Initially, the Complaints Commission was staffed largely by temporary employees, paid from the Commission's operating expenses budget. As these temporary positions were gradually filled by indeterminate employees, the Commission's salary and benefits budgets grew, with a corresponding decrease in operating expenses.

3 Planned spending

ANNEX D

ACKNOWLEDGEMENTS

In addition to those it has recognized elsewhere in this Annual Report, the Complaints Commission would like to extend special thanks to the following people for their gracious assistance in arranging for Commission staff to visit a number of Canadian Forces Bases during 2005, and for their contributions to the Commission's strategic outreach to stakeholders:

in Gander:

LCol J.W. MacAleese,
Wing Commander;

WO D. Cochrane,
Military Police

in Goose Bay:

Col G. Reaume,
Wing Commander;

WO E.R. Chubbs,
Military Police;

Gail Thorne,
Goose Bay Military
Family Resource Centre
(MFRC)

in Halifax/Shearwater:

Rear-Admiral
D. McNeil, Commander,
MARLANT;

Cdr C. Darlington,
MARLANT;

LCdr L. Murphy,
Military Police;

Capt J. Quilliam,
Military Police;

Colleen Calvert,
Halifax MFRC;

Mary-Anne McKinnon,
Shearwater MFRC

in Ottawa:

Col R.P.F. Bertrand,
Commandant;

Major A. Hughes,
Military Police;

Capt J. Toms, CFSU(O);

MWO T.L. McComb,
Military Police;

Sgt D. Menard,
Military Police

in Shilo:

Capt P. Dilella,
Area Support Group;

PO1 C. Shaw,
Military Police;

Jodi Laba, Shilo
CF Housing Agency;

Sheila Avery, Shilo
MFRC

in Winnipeg:

Capt D. Troia,
Military Police;

MWO N. Rooker,
Military Police;

Lise Schwark, Winnipeg
CF Housing Agency;

Don Brennan,
Winnipeg MFRC

in Dundurn:

Maj. R.C. Barrett,
Commanding Officer;

WO B.J. Dudka,
Military Police

in Moose Jaw:

Sgt B.J. Muchmore,
Military Police

in Edmonton:

Col. P.F. Wynnyk,
Commander;

Maj. J.A. Fraser,
Military Police;

Captain V.R. Ethier,
Military Police

in Bagotville:

Maj. M.D.M. Carmichael,
3 Wing;

Capt. M. St-Pierre,
Military Police;

MWO J.R.G. Martel,
Military Police;

Joan Simard,
Multi-Services Centre

in Valcartier:

Maj. J.D. M. Laflamme,
Military Police;

Capt. A. Lacelle,
Military Police;

Capt. J.J.P.F. Aziz-
Beaulieu, Operations;

MWO D. Jetté,
Military Police;

Marie-Claude Michaud,
MFRC Valcartier

ANNEX E

HOW TO REACH THE COMPLAINTS COMMISSION

CALL OUR INFORMATION LINE:

(613) 947-5625 or toll-free at 1-800-632-0566 to speak to an intake officer

SEND US A FAX:

(613) 947-5713 or toll-free at 1-877-947-5713

SEND US A LETTER:

Military Police Complaints Commission
270 Albert Street, 10th floor,
Ottawa, ON K1P 5G8

*Visit us at the above address for a private consultation –
appointments are recommended*

E-MAIL US:

commission@mpcc-cppm.gc.ca

NOTE:

*Please do not send confidential information via e-mail –
we cannot guarantee the security of electronic communications at this time.*

VISIT OUR WEBSITE:

www.mpcc-cppm.gc.ca

MEDIA INQUIRIES:

(613) 947-5668 or e-mail media@mpcc-cppm.gc.ca

