

MILITARY POLICE  
COMPLAINTS  
COMMISSION



COMMISSION D'EXAMEN  
DES PLAINTES CONCERNANT  
LA POLICE MILITAIRE

## Outlook With Vision

Annual Report 2001

PROFESSIONALISM

INTEGRITY

INDEPENDENCE

Canada



*There is established a commission, called the Military Police  
Complaints Commission . . . .*

*National Defence Act, section 250.1(1)*

### MISSION

.....

To promote the principles of integrity and fairness and to build a climate of confidence within the Department of National Defence, the Canadian Forces and the Canadian public, regarding the military police.

### VISION

.....

To promote and to 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.

### VALUES

.....

- Ethics and professionalism
- Integrity and transparency
- Independence
- Individual respect
- Open and effective communications

MILITARY POLICE  
C O M P L A I N T S  
C O M M I S S I O N



COMMISSION D'EXAMEN  
DES PLAINTES CONCERNANT  
LA POLICE MILITAIRE

C H A I R P E R S O N • P R É S I D E N T E

March 31, 2002

The Honourable Art Eggleton, P.C., M.P.  
Minister of National Defence  
National Defence Headquarters  
Major-General 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 honour to submit the year 2001 Annual Report of the Military Police Complaints Commission for tabling in Parliament.

Yours truly,

A handwritten signature in cursive script that reads "Louise Cobetto".

Louise Cobetto  
Chairperson



## THE HISTORY OF THE COAT OF ARMS

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In the years following Confederation, Canada did not have a distinct Coat of Arms. For many years, the Royal Arms of the United Kingdom were used to identify the offices of the Government of Canada. Although the design of a Great Seal was approved in 1868 by royal warrant, it was never used as the Great Seal.

The original design displayed the arms of the four original members of Confederation: Ontario, Quebec, Nova Scotia and New Brunswick. It was summarily adopted as the arms of Canada. This design did not suit the growth of the country, however. As additional provinces joined the country, attempts were made to adapt the seal by adding the arms of the new provinces. The result was a crowded and confused appearance. For this reason, the Canadian Government submitted a request to the Sovereign for a grant of arms. This request was approved, and the arms assigned to Canada were appointed and declared in a proclamation from His majesty King George V, on November 21, 1921. The result was a design similar to the current version. The original design was adapted to its current state in 1994 with the addition of the motto of the Order of Canada surrounding the shield, on the advice of Prime Minister Pierre Trudeau, and following approval by HRH Queen Elizabeth II.

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### **THE CROWN, THE CREST AND THE HELM**

THE CROWN WHICH SITS ATOP THE ROYAL COAT OF ARMS OF CANADA REPRESENTS THE PRESENCE OF A MONARCH AS CANADA'S HEAD OF STATE. THIS SPECIFIC CROWN IS SAINT EDWARD'S CROWN, IT HAS BEEN USED IN THE CORONATION OF KINGS AND QUEENS IN WESTMINSTER ABBEY FOR CENTURIES.

THE CREST SITS ATOP THE ROYAL HELMET ON THE COAT OF ARMS. IT IS USED TO MARK CANADA'S SOVEREIGNTY AND CONSISTS OF A LION STANDING ON A RING OF RED AND WHITE SILK, WEARING THE ROYAL CROWN AND HOLDING A MAPLE LEAF IN ITS RIGHT PAW. THE LION SYMBOLIZES VALOUR AND COURAGE.

THE HELM OR HELMET SITS ATOP THE SHIELD. IT DISPLAYS THE CREST AS WELL AS DENOTES THE RANK OF THE PERSON BEARING THE ARMS. THE ROYAL HELMET ON THE COAT OF ARMS IS DRAPED WITH A RED AND WHITE MANTLE, WHICH DENOTE THE COLOURS OF CANADA.



## MESSAGE FROM THE CHAIRPERSON

Louise Cobetto  
Chairperson



### INTRODUCTION

Complaints concerning members of the Canadian Forces military police must be thoroughly and professionally examined. That examination must be independent and unbiased. Employees of the Department of National Defence and members of the Canadian Forces, as well as the Canadian public, must have confidence in the integrity of the military justice system and in the role played by the military police within that system.

The Military Police Complaints Commission (the Commission) has now been in existence for over two years, having begun its formal operations on December 1, 1999. My goal has been to ensure that Canada's military justice system and those affected by that system are well served by the Commission as an independent, external oversight agency.

The military police is one of the last police agencies in Canada to adopt a professional code of conduct. Such codes are the cornerstone of policing. The military police is also one of the last forces to be held accountable for its actions before a civilian oversight agency. Clearly, I am pleased, along with Commission staff, to participate in and implement these important changes. These changes are promoting higher professional standards — standards by which all police forces are judged.

Employees of the Department of National Defence and members of the Canadian Forces, as well as the Canadian public, must have confidence in the integrity of the military justice system and in the role played by the military police within that system.

## INTEGRATING THE COMMISSION INTO THE MILITARY “LANDSCAPE”

Although the Commission is a young organization, its achievements have been significant. Already, it has become part of the military justice “landscape”. I am particularly proud to report that the Chief of the Defence Staff and the Canadian Forces Provost Marshal have accepted all the findings and recommendations that the Commission has submitted to them in its reports to date.

Furthermore, Mr. Thomas G. Flanagan, S.C., Commission Member, and I were consulted this year during the independent review of the *Accountability Framework* between the Vice Chief of the Defence Staff and the Canadian Forces Provost Marshal that was adopted in 1998. We want to be able to contribute to the enhancement of the military justice system, and we welcome the chance to express our views. In particular, we welcomed the framework study, which dealt in part with issues of military police independence. Since its inception, the Commission has had a keen interest in ensuring the independence of the Canadian Forces Provost Marshal as an institution within the Canadian Forces. Independence of the military police and the Provost Marshal are at the heart of the military justice system.

The independence of the military police and the Provost Marshal are at the heart of the military justice system.

## INTERFERENCE COMPLAINTS — FEAR OF REPRISALS

I continue to be concerned about the possible reluctance of military police members to make interference complaints against those holding more senior ranks for fear of reprisals. The *National Defence Act* (the *Act*) expressly permits members of the military police to make interference complaints about a superior officer. As a practical matter, however, certain members may fear reprisals if they make an interference complaint about someone more senior in rank. For the complaints process to work, military police members must be protected to the extent possible against such reprisals. Even a simple *perception* that reprisals may occur is a problem. Both feared and actual reprisals will stifle the making of legitimate interference complaints. Military police members should not have to worry that their performance evaluations, employment, promotional opportunities or future

assignments are in jeopardy if they rely on a redress mechanism established by the *Act*. I will continue to look for ways to protect military police members against such reprisals.

### NEW DEMANDS ON THE CANADIAN FORCES AND THE DEPARTMENT OF NATIONAL DEFENCE

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The year 2001 saw extraordinary new demands placed on the Canadian Forces and the Department of National Defence as their work took on the complex added dimension of responding to terrorism. The work of this Commission may seem remote from the events of September 11, but in important ways it is not. Military police members assumed a significant new workload after the events of September 11 because of the heightened level of security on bases/wings and preparations for deployment in Afghanistan. The more active operational role of the Canadian Forces and the military police may give rise to an increase in complaints to this Commission. It may also give rise to logistical issues such as dealing with complaints about conduct that occur in distant foreign jurisdictions, and the need to inform civilians in other countries where Canadian Forces military police are deployed that they have a right to file conduct complaints.

The members of our military must have confidence in their military police. Given the many difficult tasks our military forces now face, we cannot afford deficiencies in military policing. Such deficiencies would be tremendously demoralizing to members at a time when morale is vital to cohesion and, in some cases, survival. Indeed, the members of the Canadian Forces deserve to know that their military police, and their justice system in general, are efficient, fair and operating in their interests.

This being said, members of the military police must be able to carry out their policing duties free of interference in their investigations. This will further assure the smooth functioning of the military justice system.

The Commission will continue to promote and secure greater fairness in the military justice system through monitoring the work relating to the military police.

Members of the Canadian Forces deserve to know that their military police, and their justice system in general, are efficient, fair and operating in their interests.

## OUTREACH

During the past year, I made presentations to the newly appointed military police members, intermediate and senior members and the staff, at the Canadian Forces Military Police Academy in Borden. I also visited the Base Commander and military police members at Canadian Forces Base Petawawa, as well as the Wing Commander and members of the military police at 22 Wing, North Bay.

In March 2001, I addressed the Military Police Advisory Committee, chaired by the Vice Chief of the Defence Staff, about “The Commission: One Year After.” I also participated in the activities of two civilian oversight agencies — the Canadian Association for Civilian Oversight of Law Enforcement (CACOLE) and the International Association for Civilian Oversight of Law Enforcement (IACOLE). In June 2001, I addressed the joint CACOLE-IACOLE conference in Quebec City on “Civilian Oversight in an International and National Environment: Human Rights and Accountable Policing.” At that CACOLE general meeting held during this joint conference, I was elected as a member of the Board of Directors.

A tour of Canadian Forces bases/wings on the West Coast and in the Atlantic Provinces, as well as selected bases/wings in Ontario and Quebec was planned for the autumn of 2001, but was cancelled following the terrorist attacks of September 11. I hope that the coming year will permit me to play a more significant educational and outreach role. I believe that it is an essential aspect of my mandate to better understand both the environment in which military policing takes place and the challenges presented to military police. With that in mind, I intend to continue to meet, not only with members of the military police, but also with members of the Canadian Forces, Department of National Defence personnel and other key stakeholders.

## ORGANIZATIONAL STRUCTURE

In my previous Annual Report, I mentioned that the Commission should take time during 2001 to consolidate its achievements and evaluate its organizational structure and operations to always ensure a service that is both professional and efficient. The Commission has taken this opportunity to enhance its

The Commission will continue to promote and secure greater fairness in the military justice system through monitoring the work relating to the military police.

organizational structure to better respond to the needs of the military police, Canadian Forces members, employees of the Department of National Defence and the Canadian public. To this end, the Operations Directorate is nearing its full complement and I am pleased to announce that the Legal Services Directorate is fully staffed.

The Commission's case tracking system, based on a similar program developed for the Provost Marshal's office, became operational in 2001. I would like to thank the Provost Marshal for sharing this program with the Commission, thus permitting its cost-effective implementation.

### ACKNOWLEDGMENTS

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I take particular pleasure in acknowledging the exceptional contribution of Mr. Thomas G. Flanagan, S.C., former Chief of Police for the City of Ottawa and now a part-time member of the Commission. I have always been able to count on his support and have benefited greatly from his vast policing experience, his judgment and his wisdom. He has been an invaluable colleague since we were appointed to the Commission in September 1999. He participates actively in our work. The Commission staff joins me in recognizing his contribution and in expressing our heartfelt appreciation.

With regret, Mr. Paul Duffie, Q.C., a part-time member of the Commission, resigned in December 2001 for professional reasons. Because of Mr. Duffie's thriving law practice in New Brunswick, he was unable to contribute as much to the work of the Commission as he would have liked. I very much appreciated his assistance during our start up phase. I thank Mr. Duffie for his contribution to our organization and offer my best wishes for his future endeavours.

I also thank the very professional and competent staff with whom I have had the pleasure to work this past year. They have so capably faced the many challenges of bringing this young Commission into a state of full operation, all the while exhibiting true dedication and a spirit of camaraderie.

Louise Cobetto  
Chairperson  
Military Police Complaints Commission



## **THE SUPPORTERS**

THE SUPPORTERS ARE OFTEN SHOWN IN A FEROCIOUS MANNER “RAMPANT”. THE HISTORY BEHIND THE LION AND THE UNICORN MAY COME FROM WHEN KING JAMES VI OF SCOTLAND BECAME JAMES I OF ENGLAND IN 1603. HE WAS THE FIRST MONARCH TO HAVE THE LION (ENGLAND) AND THE UNICORN (SCOTLAND) ON HIS ROYAL SHIELDS. THE SUPPORTERS ON THE CANADIAN COAT OF ARMS SHOW A LION ON THE SHIELD’S RIGHT HOLDING A SILVER LANCE TOPPED WITH GOLD, FLYING THE ROYAL UNION FLAG, AND ON THE SHIELD’S LEFT IS A UNICORN WITH A GOLD HORN, MANE, AND HOOFS. AROUND THE UNICORN’S NECK IS A GOLD, CHAINED CROWN OF CROSSES AND FLEUR-DE-LIS. THE FLAG FLYING FROM THE UNICORN’S LANCE IS THAT OF ROYALIST FRANCE. THESE REPRESENT THE TWO FOUNDING NATIONS THAT ESTABLISHED CANADA’S FIRST GOVERNING BODIES AND CUSTOMS.

# PART I

## THE COMPLAINTS PROCESS

### MILITARY POLICE

There are about 1200 military police members of the Canadian Forces. Of these, 110 form the Canadian Forces National Investigation Service.

Members of the Canadian Forces National Investigation Service investigate serious criminal or military offences. They also conduct “sensitive” investigations — those involving a senior officer or a civilian employee of the Department of National Defence in an equivalent senior position. Investigations involving certain types of property (for example, computer equipment) are also treated as sensitive.

Military police hold the status of peace officers and have jurisdiction over all persons subject to the Code of Service Discipline throughout Canada and abroad wherever the Canadian Forces are stationed or deployed. They also have jurisdiction over all persons, including civilians, on or in Department of National Defence property. Military police therefore have jurisdiction over members of the general public on military bases.

### COMPLAINTS

Under the *National Defence Act*, complaints by or about military police members fall into two broad categories: conduct complaints and interference complaints. Each is handled differently.

#### Conduct Complaints

Any person, including a member of the military police, the Canadian Forces or Department of National Defence civilian personnel, may make a complaint about the conduct of the military police in performing any policing duties or functions prescribed in the *Complaints About the Conduct of Members of the Military Police Regulations*. They may lodge a complaint even if they are not personally affected by the conduct in question.

Any person, including a member of the military police, the Canadian Forces or Department of National Defence civilian personnel, may make a complaint about the conduct of the military police in performing any policing duties or functions prescribed in the *Complaints About the Conduct of Members of the Military Police Regulations*.

The Commission Chairperson may bring to the attention of the Provost Marshal circumstances involving the conduct of the military police and ask the Provost Marshal to investigate.

The *Complaints About the Conduct of Members of the Military Police Regulations* are set out in *Annex F*.

Any member of the military police who conducts or supervises an investigation, may make a complaint about an officer, non-commissioned member or senior official of the Department of National Defence who, through intimidation, abuse of authority or otherwise, has interfered with the investigation.

### **Interference Complaints**

Any member of the military police who conducts or supervises an investigation may make a complaint about an officer, non-commissioned member or senior official of the Department of National Defence who, through intimidation, abuse of authority or otherwise, has interfered with the investigation. The Commission has sole jurisdiction to deal with interference complaints.

## **FILING COMPLAINTS**

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### **Time Limit**

No complaint may be made more than one year after the event giving rise to the complaint. However, in certain cases, the Chairperson may extend this time at the request of the complainant.

The Commission has no jurisdiction over complaints involving incidents that occurred before December 1, 1999, the date the Commission was established. Any such complaints received during the year 2001 were handled by the Provost Marshal according to the procedures in place in the Canadian Forces before December 1, 1999. Still, the Commission may examine events that occurred before December 1, 1999, to help it understand the complaints it investigates.

### **Submission**

A conduct or interference complaint may be made either orally or in writing to the Commission Chairperson, the Judge Advocate General or the Provost Marshal. A conduct complaint may also be made to any member of the military police.



### Follow-up

The complainant receives an acknowledgement of receipt of his or her complaint. The subject of the complaint is advised of its content, unless this might adversely affect or hinder the investigation. Following this, both are periodically advised of the progress of the case until it is resolved.

### Withdrawal

A complainant may withdraw a complaint by sending a written notice to the Chairperson. However, the Chairperson may choose to conduct an investigation despite a notice for withdrawal.

## THE CANADIAN FORCES PROVOST MARSHAL

The functions of the Provost Marshal are in many respects comparable to those of the Chief of a civilian police force. The Provost Marshal delegates some of her duties to her deputies — for example, the Deputy Provost Marshal, Professional Standards.

The Deputy Provost Marshal, Professional Standards is responsible for initially examining complaints about the conduct of military police members, investigating breaches in professional standards and managing the process for dealing with conduct complaints on behalf of the Provost Marshal.

### Procedure — Conduct Complaints

Except where the Chairperson decides to intervene in the public interest, the Provost Marshal is responsible for handling the initial stages of conduct complaints. Upon receiving a conduct complaint, the Provost Marshal acknowledges receipt to the complainant, advises the military police member who is the subject of the complaint of its substance (circumstances permitting) and advises the Commission Chairperson. The Chairperson must be kept informed throughout the process to be able to closely monitor the handling of the complaint.

Upon receiving a conduct complaint, the Provost Marshal acknowledges receipt to the complainant, advises the military police member who is the subject of the complaint of its substance and advises the Commission Chairperson.

### Informal Resolution

The Provost Marshal may attempt to resolve a complaint informally after obtaining the consent of the parties involved. However, certain categories of complaints cannot be resolved informally. These categories are identified in the regulations set out in *Annex F*.

The *Act* contains a number of provisions allowing the Chairperson to attentively monitor every step in the handling of conduct complaints by the Provost Marshal and to intervene as required.

### Investigation

If the complaint is not resolved informally, the Provost Marshal may decide to investigate, end an investigation in progress or refuse to conduct an investigation for one of the reasons outlined in the *Act*, most notably if the complaint is frivolous, vexatious or made in bad faith.

If the Provost Marshal investigates, a report containing the following is sent to the complainant, the military police member who is the subject of the complaint and the Chairperson:

- a summary of the complaint;
- the findings of the investigation;
- a summary of any action that has been or will be taken with respect to disposition of the complaint; and
- a notice of the right of the complainant to refer the complaint to the Commission for review, if not satisfied with the disposition of the complaint.

The Provost Marshal must maintain a file of all complaints received and, on request, must send all information contained in the file to the Commission. This is necessary for the Commission to perform its monitoring role.

## THE CHAIRPERSON

### Review of Conduct Complaints

A complainant, who is dissatisfied with a direction by the Provost Marshal to refuse or end informal resolution or an investigation, or the disposition of the conduct complaint as indicated in an investigation report, may request that the Commission review the complaint. In this case, the Provost Marshal shall provide the Chairperson with all information and materials relevant to the complaint.

It should be noted that the *Act* contains no provision limiting the time a complainant may wait before requesting a complaint be reviewed.

After reviewing the complaint, the Chairperson may:

- decide that the Provost Marshal handled the complaint in a suitable manner;
- be satisfied with the investigation conducted by the Provost Marshal but disagree with the findings reached. In this case, the Chairperson may make her own recommendations;
- conduct her own investigation if she is not satisfied with the investigation conducted by the Provost Marshal. If her findings differ from those of the Provost Marshal, the Chairperson will make her own recommendations.

### Oversight of the Canadian Forces Provost Marshal's Complaints Handling Process

The *Act* contains a number of provisions allowing the Chairperson to attentively monitor every step in the handling of conduct complaints by the Provost Marshal and to intervene as required.

### Procedure — Interference Complaints

The Chairperson has the exclusive authority to deal with interference complaints. She may refuse to conduct an investigation or she may end an investigation already under way for any of the reasons outlined in the *Act*, including if the complaint is frivolous, vexatious or made in bad faith. Her decision to refuse to conduct an investigation is final.

A complainant, who is dissatisfied with a direction by the Provost Marshal to refuse or end informal resolution or an investigation, or the disposition of the conduct complaint as indicated in an investigation report, may request that the Commission review the complaint.

**Commission Investigation and Public Hearing**

If she considers it advisable in the public interest, the Chairperson may, at any point in the handling of a conduct or interference complaint, cause the Commission to conduct an investigation and, if circumstances warrant, hold a public hearing into a complaint.

Such a decision by the Chairperson suspends the handling of the complaint by the Provost Marshal. In turn, any disciplinary or criminal proceeding before a court or tribunal of first instance that relates to the same conduct prompts the suspension of all public hearings of the Commission until the proceedings are completed.

The Chairperson may, at any point in the handling of a conduct or interference complaint, cause the Commission to conduct an investigation and, if circumstances warrant, hold a public hearing into a complaint.

**Reports**

Each request for review by the Chairperson and each Commission investigation or hearing leads to two reports — Interim and Final.

***Interim Report***

The interim report states the Chairperson’s findings and recommendations, or those of the Commission if a hearing has been held.

The interim report is normally sent to the Minister, the Chief of the Defence Staff or Deputy Minister, depending on whether the subject of the complaint is a member of the military or a senior departmental official, the Provost Marshal and the Judge Advocate General.

The interim report is normally reviewed by the Chief of the Defence Staff or the Provost Marshal, depending on whether the complaint concerns interference or conduct. However, they do not review the interim report if they themselves are subjects of the complaint.

The person who reviews the interim report notifies the Minister and the Commission Chairperson in a “notice of action” of any action taken or intended to be taken about the complaint. This person is not bound by the findings and recommendations set out in the Chairperson’s interim report, but must justify in the notice the reasons for not acting on these findings or recommendations.

### *Final Report*

After considering the notice received from the person who reviewed the interim report, the Chairperson prepares a final report with her findings and recommendations. The Chairperson is not bound by the content of the notice she receives. However, she considers this a key step in the process, since it allows her to obtain the opinion of experts in military issues.

The final report is sent to:

- the Minister;
- the Deputy Minister;
- the Chief of the Defence Staff;
- the Judge Advocate General;
- the Provost Marshal;
- the complainant;
- the person who is the subject of the complaint;
- all persons who have satisfied the Commission that they have a substantial and direct interest in the complaint.

The chart explaining the process for handling complaints is set out in *Annex G*.

## THE SHIELD

THE THREE LIONS IN THE FIRST QUARTER REPRESENT THE TIES TO ENGLAND, THEY COULD POSSIBLY DATE BACK TO KING RICHARD I, "THE LION-HEARTED", WHO CARRIED WITH HIM, DURING THE CRUSADES, A SHIELD WITH THREE GOLD LIONS ON A RED BACKGROUND. THE SECOND QUARTER CONTAINS THE ROYAL LION OF SCOTLAND, IN IT WE CAN SEE A RED LION REARING UP ON IT'S LEFT FOOT, CONTAINED IN A RED DOUBLE BORDER WITH FLEURS-DE-LIS ON THE CORNERS AND CENTRE OUTSIDE OF THE BORDER, THIS EMBLEM WAS USED BY ALEXANDER III WHO CREATED THE INDEPENDENT NATION OF SCOTLAND. THE GOLDEN HARP WITH WHITE STRINGS IS THE ROYAL IRISH HARP OF TARA, HENRY VIII, AFTER HIS VICTORY IN IRELAND HAD THE POPE SEND THE HARP OF TARA TO ENGLAND WHERE HE HAD IT'S LIKENESS EMBLAZONED ON HIS ROYAL SHIELD, IT REMAINS THE SYMBOL OF IRELAND. ON JULY 24, 1534, JACQUES CARTIER LANDED AT GASPE, ERECTED A CROSS AND CLAIMED CANADA FOR FRANCE, THIS SYMBOL OF THE ROYAL FLEURS-DE-LIS OF FRANCE WAS ENGRAVED IN THAT CROSS AND REPRESENTS THE FIRST HERALDIC SYMBOL RAISED IN CANADA. THE THREE MAPLE LEAVES ARE A GENUINELY CANADIAN SYMBOL AND WERE PUT INTO THE SHIELD TO ENSURE THAT THE COAT OF ARMS WAS UNMISTAKABLY CANADIAN.

## PART II

# OPERATIONS

During the calendar year, the Commission responded to numerous enquiries. In some cases, issues brought to the Commission's attention did not fall within its mandate. In this event, the Commission guided those raising these issues to the appropriate authority.

Beyond general enquiries, the correspondence that fell within the Commission's mandate was divided into one of the following five categories: conduct complaints; requests for review; interference complaints; investigations in the public interest; and, withdrawal of complaints.

### CONDUCT COMPLAINTS

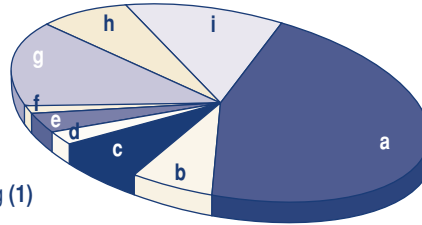
The majority of enquiries received by the Commission involved conduct complaints. The Commission's mandate permits it to review complaints about the conduct of members of the military police in the performance of a policing duty or function described in the *Complaints About the Conduct of Members of the Military Police Regulations* (see Annex F). Only conduct that occurred on or after December 1, 1999, the date on which the Commission began operations, is eligible for review by the Commission. During 2001, 64 conduct complaint cases met these requirements.

The chart on page 16 illustrates both the policing duties and functions described in the *Complaints About the Conduct of Members of the Military Police Regulations* and the number of specific policing duties or functions addressed by the 64 conduct complaints. Note that more than one policing duty or function can be included in a single conduct complaint. For this reason, the 64 conduct complaints encompassed a total of 98 allegations of misconduct concerning policing duties or functions.

The Provost Marshal must maintain a file of all complaints received and, on request, must send all information contained in the file to the Commission. This is necessary for the Commission to perform its monitoring role.

**Allegations of misconduct by policing duties and functions: 98**

- a. The conduct of an investigation (45)
- b. The rendering of assistance to the public (6)
- c. The execution of a warrant or another judicial process (6)
- d. The handling of evidence (2)
- e. The laying of a charge (3)
- f. Attendance at a judicial proceeding (1)
- g. The enforcement of laws (15)
- h. Responding to a complaint (8)
- i. The arrest or custody of a person (12)



**REQUESTS FOR REVIEW  
OF CONDUCT COMPLAINTS**

In 2001, the Commission received 13 requests for review. In relation to these 13, the Chairperson completed three interim reports. The remaining eight reviews are at various stages (research, investigation, drafting) of completion. It should be noted that a request for review received during the end of the previous year resulted in an interim and final report being completed in 2001.

Several reviews of conduct complaints were not completed as of December 31, 2001, and are therefore not reported in detail here. In some cases, the Chairperson has made an interim report containing her findings and recommendations. However, it would be inappropriate to provide these specific findings and recommendations until the Chairperson reviews the response — in the form of a notice of action — from the Chief of the Defence Staff or Provost Marshal and prepares a final report.

Request for review of conduct complaints cover a range of issues, including:

- alleged negligence;
- alleged abuse of authority;
- alleged unprofessional behaviour;
- alleged failure by military police to investigate thoroughly;
- alleged harassment by military police;



- alleged unlawful detention and arrest;
- the appropriate circumstances for the Provost Marshal to refuse to investigate a conduct complaint;
- the mandate and jurisdiction of military police in cases involving civilians.

## Case Summaries

### a. Alleged Refusal to Investigate

The Commission received a complaint that a military police member refused to investigate allegations of perjury. The Deputy Provost Marshal, Professional Standards decided not to conduct an investigation, citing section 250.28(2)(a) of the *Act*. That section permits the Provost Marshal to direct that no investigation of a conduct complaint occur if she is of the opinion that the complaint is frivolous, vexatious or made in bad faith.

The Chairperson concluded that the conduct of the military police member was appropriate, since the elements needed to investigate an offence of perjury were not present. However, the Chairperson also concluded that the complainant should have been given a more complete explanation of past investigative activity by the military police and a description of the elements of the offence of perjury.

The Chairperson recommended that when a military police investigation is terminated, the complainant should be informed in a timely manner and should also be told the reason(s) for its termination. As well, the Provost Marshal should establish a higher threshold for determining a conduct complaint to be frivolous, vexatious or made in bad faith. These terms must be used with caution and reserved for those rare cases that are truly lacking in substance, have insufficient grounds for any action and seek only to annoy. These recommendations were well received by the Provost Marshal who responded in her notice of action: “The Canadian Forces Provost Marshal embraces the findings and recommendations presented in ...[the Chairperson’s] interim report...”

The Provost Marshal should establish a higher threshold for determining a conduct complaint to be frivolous, vexatious or made in bad faith. These terms must be used with caution and reserved for those rare cases that are truly lacking in substance, have insufficient grounds for any action and seek only to annoy.

### **b. Alleged Unlawful Detention**

A Canadian Forces member submitted a conduct complaint containing multiple allegations against a member of the military police. The complainant alleged:

- that he was unlawfully arrested;
- that he was unlawfully detained;
- that he was not told the details of the offence until he asked for particulars;
- that he was told he was charged with an offence when he had not been charged; and
- that he was badgered to confess to a prior incident that he did not commit.

A Professional Standards investigator investigated three allegations contained in the conduct complaint on behalf of the Provost Marshal. The Deputy Provost Marshal, Professional Standards sent the complainant a final letter that concluded that two out of three of the complainant's allegations were not supported.

The complainant requested a review by the Commission. On completion of her review in November 2001, the Chairperson sent her interim report to the Minister of National Defence, the Chief of the Defence Staff and the Provost Marshal. As of December 31, 2001, the Chairperson was awaiting a notice of action in response.

### **c. Jurisdiction of Military Police**

A military police member received a complaint from a woman who alleged that her former father-in-law would not return her children's legal documents, thus violating a civil separation agreement between her and her spouse. The military police member contacted the father-in-law to request that he return the documents. The father-in-law complained to the Commission, arguing that the military police did not have the authority to contact him to demand the return of the documents. He further argued that since both he and his daughter-in-law were civilians, the military police should not have become involved. The Chairperson issued an interim report in December 2001 and was awaiting a response as of year end.

## INTERFERENCE COMPLAINTS

During the year, the Commission dealt with two interference complaints. One is described below, and the other, still under investigation, dealt with allegations of abuse of authority by an officer to obstruct a military police investigation.

### Case Summary

#### Alleged Interference with a Police Investigation

A member of the military police complained that the Commander of a regiment had interfered in one of his police investigations by proceeding with a search and seizure in a military residence against his wishes. The complainant alleged that the Commander's actions alerted the members of the regiment that the military police were conducting an investigation. This, the complainant said, could be a key factor in the investigation and could even cause it to fail.

The Chairperson submitted an interim report in April 2001 to the Minister, the Chief of the Defence Staff, the Judge Advocate General and the Provost Marshal. The Chairperson recommended resolving the complaint informally. In his notice of action, the former Chief of the Defence Staff, General Maurice Baril, agreed to that proposition from the Chairperson. The parties also agreed to attempt to resolve the complaint informally. The parties reached a mutual understanding of the circumstances surrounding the incident and thus put an end to the complaint.

Although the complaint was considered resolved, discussion between the parties at the conciliation session raised certain systemic issues which required comment. The Chairperson made use of her final report to give her observations to the Chief of the Defence Staff. Among her observations were the following:

- Inspections may lead to abusive entry and a breach of privacy rights. They may also jeopardize ensuing administrative measures or criminal proceedings. The team assigned to conduct an inspection would benefit from the inclusion of a person with the authority and training to make appropriate on-the-spot decisions, as required. Ideally, this person would be the regimental sergeant-major.

The Chairperson has the exclusive authority to deal with interference complaints.

Senior officials of the military police and the Canadian Forces should take advantage of the various fora available to them to raise awareness among military personnel about the distinct functions performed by the military police.

- It is understandable that not all non-commissioned military police members conducting an investigation are at ease with a superior officer and not all are able to assert and maintain an opposing point of view. To promote more positive discussions and dispel all ambiguity, while ensuring that consideration and mutual respect are maintained, rank should not enter into the relationship between an officer and a military police member conducting policing duties or functions. The duties and responsibilities inherent in the police function should take precedence over hierarchical considerations.
- Senior officials of the military police and the Canadian Forces should take advantage of the various fora available to them to raise awareness among military personnel about the distinct functions performed by the military police. Such information would contribute greatly to harmonizing military police practices with those of other Canadian police forces.
- Common practice dictates that unit commanders be advised of a police investigation involving their unit, unless this would jeopardize the investigation. It is not in the best interests of unit commanders to intervene in a police investigation.
- A commanding officer has great discretion in deciding whether to call on the military police. However, some situations may involve a degree of difficulty that demands police expertise.

## INVESTIGATIONS IN THE PUBLIC INTEREST

If she considers it advisable in the public interest, the Chairperson may, at any point in the handling of a conduct or interference complaint, cause the Commission to conduct an investigation and, where circumstances warrant, hold a public hearing into a complaint.

Beyond the 64 conduct complaints that could be treated by the Provost Marshal, the Chairperson decided under section 250.38(1) of the *National Defence Act* that two other conduct complaints were public interest complaints.

The Chairperson issued a final report in January 2001 on one public interest investigation — that relating to the Samson/Stopford matter. The Commission conducted a second major public interest investigation in 2001, but since the investigation is still ongoing, it is not described here.

### Case Summary Samson/Stopford Matter

Following a complaint from Brigadier-General Patricia Samson, then the Canadian Forces Provost Marshal, and a complaint from ex-Warrant Officer Matthew Stopford, the Commission investigated whether the Canadian Forces National Investigation Service had misled the Chief of the Defence Staff and the Canadian public. Specifically, had they been misled about the possibility of laying charges against soldiers who had allegedly poisoned ex-Warrant Officer Stopford in Croatia in 1993.

The main issues examined by the Commission were as follows:

- Did the Canadian Forces National Investigation Service provide inaccurate or inadequate and misleading advice to the Chief of the Defence Staff and the Canadian public, among other occasions, during a press conference held on May 30, 2000, with regard to the possibility of laying charges pursuant to the *Criminal Code* and the *National Defence Act*?
- Did the Canadian Forces National Investigation Service provide misleading information to ex-Warrant Officer Matthew Stopford with respect to the “confessions” collected during the Canadian Forces National Investigation Service investigation?

- When did the military police and the chain of command become aware of the allegations that ex-Warrant Officer Stopford was poisoned in Croatia in 1993?

The Chairperson released her final report in January 2001. The conclusions differed substantially from those reached earlier by the Special Review Group established by the Chief of the Defence Staff to examine much the same issues, largely because the Commission had a more extensive body of evidence before it. Following the Commission's investigation, the Chairperson concluded:

I am particularly proud to report that the Chief of the Defence Staff and the Canadian Forces Provost Marshal have accepted all the findings and recommendations that the Commission has submitted to them in its reports to date.

- There was no misconduct by Brigadier-General Patricia Samson, the Canadian Forces National Investigation Service or the military police members whose conduct the Commission investigated. Furthermore, the Canadian Forces National Investigation Service did not mislead, intentionally or otherwise, the Chief of the Defence Staff or the Canadian public about the nature of the legal advice on which the Canadian Forces National Investigation Service relied in reaching its decision not to proceed with *Criminal Code* and *National Defence Act* charges;
- There were minor inadequacies in the information delivered by the Canadian Forces National Investigation Service at a May 30, 2000, news conference where the decision not to lay charges was announced. However, these inadequacies were not significant and did not have a bearing on the allegations of providing inaccurate, inadequate or misleading advice;
- There was confusion over the interpretation of the word "confessions" and that there was no intent on the part of the Canadian Forces National Investigation Service to mislead ex-Warrant Officer Stopford;
- Concerning whether and when the military police and the chain of command became aware of the poisoning allegations, the Commission's investigation found that this was adequately reflected in the Canadian Forces National Investigation Service news conference. The main point — that there was some evidence to suggest that the chain of command in Croatia was aware of the poisoning allegations — was reported by the Canadian Forces National Investigation Service.

## WITHDRAWAL OF COMPLAINT

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In 2001, the Commission received one request to withdraw a conduct complaint. The Chairperson endorsed the decision of the complainant and decided to not pursue the review in this case.

## REPORTS BY THE CHAIRPERSON

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In response to the matters reviewed or investigated by the Commission, the Chairperson issued five interim and three final reports during the year, including reports relating to the cases described above. These reports contained 44 findings, 11 observations and 11 recommendations.

The Chairperson continues to work on other interim reports from complaints generated in 2001. The Provost Marshal's notices of action responding to three interim reports in her possession remained outstanding at the end of the year. However, these interim reports were provided to the Provost Marshal only shortly before the end of the year.



### **THE MOTTO AND RIBBON**

THE MOTTO, “A MARI USQUE AD MARE” IS BASED ON PSALM 72:8, “HE SHALL HAVE DOMINION FROM SEA TO SEA AND FROM THE RIVER UNTO THE ENDS OF THE EARTH.” IT WAS FIRST USED IN 1906 IN THE NEW LEGISLATIVE ASSEMBLY OF SASKATCHEWAN, CARVED ONTO THE HEAD OF THEIR MACE. SIR JOSEPH POPE, UNDERSECRETARY OF STATE FIRST PROPOSED THE MOTTO, BEING IMPRESSED BY IT’S MEANING. LATER, ON APRIL 21, 1921, THE ORDER IN COUNCIL PROPOSED THE MOTTO FOR THE NEW COAT OF ARMS, AND IT WAS FINALLY CONFIRMED BY ROYAL PROCLAMATION ON NOVEMBER 21, 1921. FOLLOWING THE ADVICE OF THE PRIME MINISTER OF CANADA, HRH QUEEN ELIZABETH II APPROVED THE ADDITION OF A RIBBON TO THE ROYAL ARMS. THE MOTTO IS THAT OF THE ORDER OF CANADA, “DESIDERANTES MELIOREM PATRIAM” (THEY DESIRE A BETTER COUNTRY). THE AUGMENTATION OF THE RIBBON WAS SUGGESTED BY MR. BRUCE HICKS, OF OTTAWA, AND WAS APPROVED ON JULY 12, 1994.



## CONCLUSION

The Commission is, and must be seen to be, impartial and fair in its dealings with both complainants and subjects of a complaint. Its role is to inquire into complaints independently and impartially to arrive at objective findings and recommendations based on the information provided by the complainants, military police members, witnesses and others who may assist in uncovering the truth concerning events being investigated.

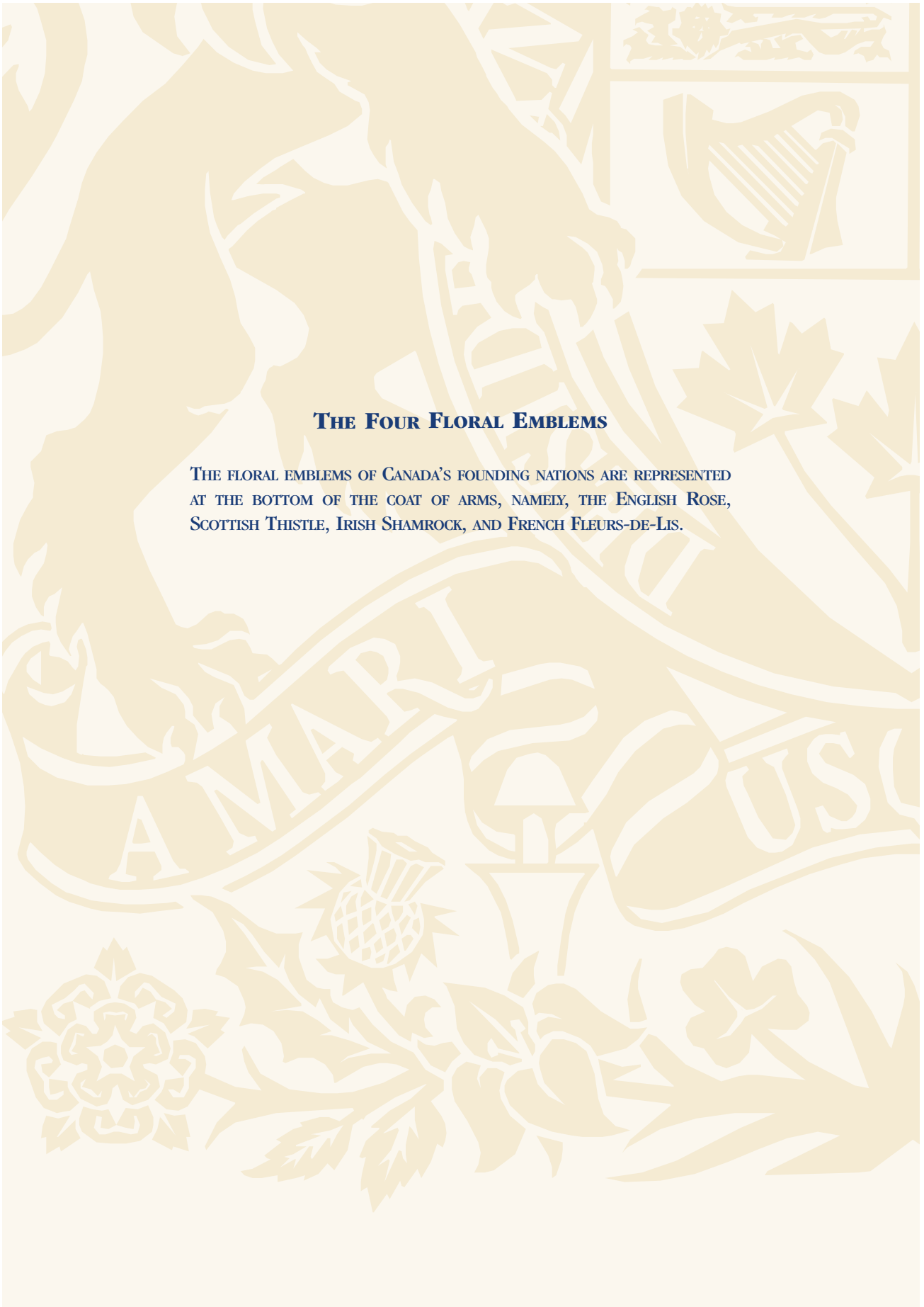
Through our operations the Commission has maintained and enhanced its efforts and commitment to establishing a reputation for professionalism, integrity and independence. Moreover, the Commission is making its intended contribution to increase confidence in the Military Police, both within the Department of National Defence and the Canadian Forces and amongst Canadians everywhere.

In 2002 and beyond, the Commission intends to increase its commitment to a client-centred focus by enhancing its informal and expeditious handling of complaints, by establishing a priority for electronic access to Commission information and services and by increasing efforts to inform stakeholders of the Commission's role, responsibilities and operational procedures.

The Commission is, and must be seen to be, impartial and fair in its dealings with both complainants and subjects of a complaint.

### **THE FOUR FLORAL EMBLEMS**

THE FLORAL EMBLEMS OF CANADA'S FOUNDING NATIONS ARE REPRESENTED AT THE BOTTOM OF THE COAT OF ARMS, NAMELY, THE ENGLISH ROSE, SCOTTISH THISTLE, IRISH SHAMROCK, AND FRENCH FLEURS-DE-LIS.



## ANNEX A

# BIOGRAPHIES

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### LOUISE COBETTO — CHAIRPERSON

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Louise Cobetto has been the Chairperson of the Military Police Complaints Commission since September 1, 1999. Prior to her appointment, Ms. Cobetto was a member of the “Tribunal administratif du Québec” (1998-1999) and a member of the “Tribunal d’appel en matière de protection du territoire agricole” (1994-1998). From 1990 to 1994, Ms. Cobetto occupied the position of Deputy Commissioner in the Office of the Police Ethics Commissioner, having previously served as the Secretary of the Quebec Police Commission (1988-1990). Prior to practicing law with Martineau Walker (now Fasken Martineau) in Montreal, Ms. Cobetto was a Special Advisor and Legal Counsel to the Minister of Electoral Reform in the Province of Quebec.

A past member of the “Conférence des juges administratifs du Québec”, Ms. Cobetto is a member of the International Association for Civilian Oversight of Law Enforcement (IACOLE), a member of the Board of Directors of the Canadian Association for Civilian Oversight of Law Enforcement (CACOLE) and a member of the Council of Canadian Administrative Tribunals (CCAT).

Ms. Cobetto graduated in 1980 with a degree in law from the University of Montreal, where she received the Deacon Kennedy award for her outstanding academic record. She was admitted to the Quebec Bar in 1981.



### **THOMAS G. FLANAGAN, S.C. — MEMBER**

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Thomas G. Flanagan is a veteran of the Ottawa Police Service. He joined the Force in May 1951 and held progressively more senior positions with the Service until his appointment as Chief of Police on July 1, 1989, a position he held until his retirement on March 31, 1993. Following his retirement, and at the request of the Police Services Board, Mr. Flanagan was sworn in as a special advisor to the Board until December 31, 1993.

Mr. Flanagan is a life member of the Canadian and Ontario Associations of Chiefs of Police, an active member of the International Association of Chiefs of Police and a former member of the Board of the University of Ottawa Centre of Criminology.

Active in the community, Mr. Flanagan is a co-founder of Operation Go Home and was also a founding member of the Board of Directors of the Ottawa Community Service Order Committee. He has received several decorations during his career, including the Star of Courage and the Queen's Commendation for Brave Conduct.

## **ANNEX B**

# **EXECUTIVE COMMITTEE**

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The governing committee at the Commission is the Executive Committee and is presided over by the Chairperson. In addition to the Chairperson, the membership consists of the Executive Director, the Director of Legal Services and General Counsel and the Executive Assistant and Special Advisor to the Chairperson.

The role of the Executive Committee is to consider and decide questions of policy, deal with major corporate matters such as the budget, the annual report and audits, and to consider and decide major administrative questions, such as organization and service agreements. The Committee may invite other Commission staff to present specific agenda items, as required, and may occasionally be addressed by representatives from central agencies, other government departments or the private sector.

## **EXECUTIVE DIRECTOR**

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Previously the Commission's Director of Operations, Mr. Robert A. MacDougall, was promoted and appointed to the position of Executive Director of the Commission in November 2001.

Mr. MacDougall holds a Master of Business Administration degree from the University of Ottawa's Executive Program. He has thirty years experience with the Government of Canada, with increasingly senior responsibilities for the management of programs, financial and human resources. Mr. MacDougall also has a strong operational background, including the significant police and security experience that he acquired as a regular member of the Royal Canadian Mounted Police and an employee of the Canadian Security Intelligence Service.

**DIRECTOR OF LEGAL SERVICES  
AND GENERAL COUNSEL**

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In September 2001, Ms. Johanne Gauthier was appointed Director of Legal Services and General Counsel of the Commission.

Ms. Gauthier has been a member of the Quebec Bar for more than 10 years and possesses significant expertise and experience in criminal law, administrative law, investigation and police ethics.

Before joining the Commission, Ms. Gauthier worked for more than 7 years as a civilian member of the Royal Canadian Mounted Police, holding various positions with increasing responsibilities, including Senior Prosecutor and Manager of Internal Affairs. Prior to her appointment with the Commission, Ms. Gauthier served as Legal Counsel for the Commissioner of Official Languages.

**EXECUTIVE ASSISTANT AND SPECIAL ADVISOR  
TO THE CHAIRPERSON**

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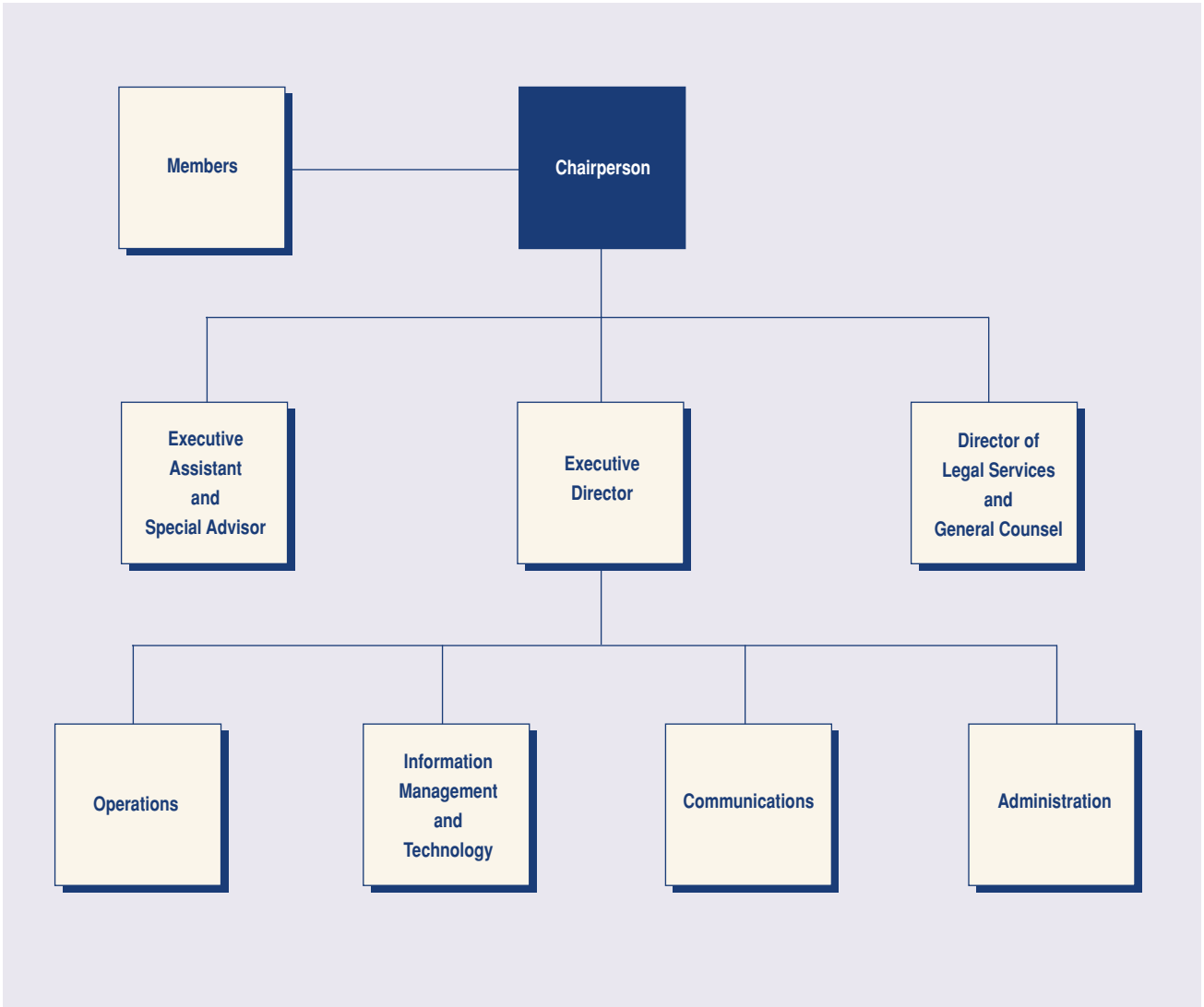
Marc Pilon, Executive Assistant and Special Advisor to the Chairperson, has been with the Commission since May 2000.

Before joining the Commission, Mr. Pilon was an Investigator and Policy Advisor with the Ombudsman for the Department of National Defence and the Canadian Forces, as well as the Observer on the Board of Inquiry — Croatia. He has served as Special Advisor to the Chair regarding the Audit of the External Review of the Canadian Forces Special Investigation Unit.

Mr. Pilon is a member of the Law Society of Upper Canada. He graduated from the University of Ottawa Law School and also holds a Bachelor of Social Sciences (Criminology) from the University of Ottawa. Mr. Pilon articulated with the law firm of Gowling, Strathy and Henderson (now Gowling Lafleur Henderson LLP) in Ottawa.

## ANNEX C ORGANIZATION CHART

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## ANNEX D

# COMMISSION BUDGET

Fiscal year 2001-2002 was the first year that the Commission received its funding from Parliament. Funds for 2000-2001 were allocated from the Department of National Defence budget, but the Commission was able to exercise discretion over the control of expenses. The initial budget for 2001-2002 was \$4,010k (20% employee benefit costs included). A supplementary amount of \$175k was added as a result of a carry forward of operating funds from the previous fiscal year and does not impact future year reference levels.

The following table identifies the Commission's planned spending budget by fiscal year.

Commission Budget (dollars)	Planned Spending 2001-2002	Planned Spending 2002-2003
Salaries, wages and other personnel costs	\$1,786,000	\$1,786,000
Contributions to employee benefit plans	348,000	357,000
Subtotal	2,134,000	2,143,000
Other operating expenditures	2,042,000	1,867,000
<b>Total net spending</b>	<b>\$4,176,000</b>	<b>\$4,010,000</b>

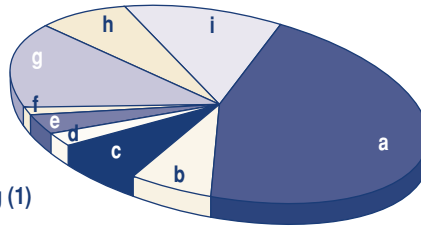


## ANNEX E

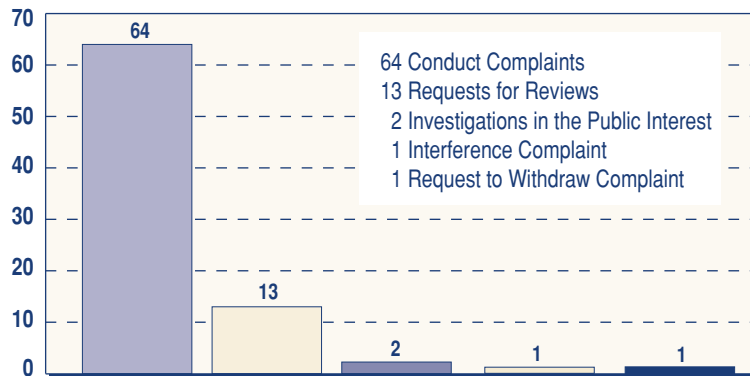
# CASE STATISTICS 2001

### Allegations of misconduct by policing duties and functions: 98

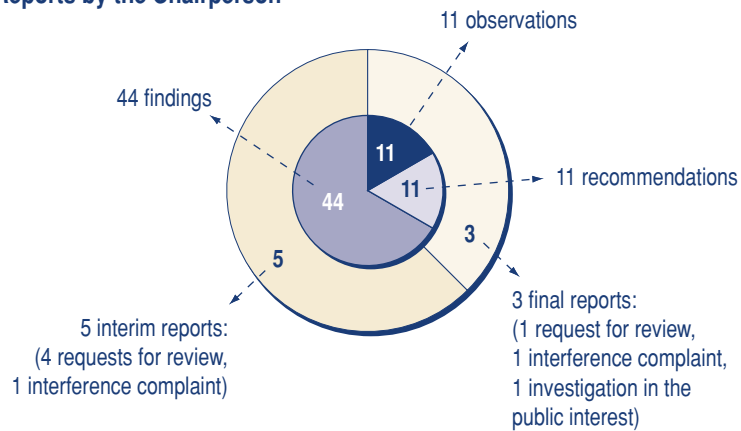
- a. The conduct of an investigation (45)
- b. The rendering of assistance to the public (6)
- c. The execution of a warrant or another judicial process (6)
- d. The handling of evidence (2)
- e. The laying of a charge (3)
- f. Attendance at a judicial proceeding (1)
- g. The enforcement of laws (15)
- h. Responding to a complaint (8)
- i. The arrest or custody of a person (12)



### Operational files



### Reports by the Chairperson



**ANNEX F**  
***COMPLAINTS ABOUT THE  
CONDUCT OF MEMBERS OF THE  
MILITARY POLICE REGULATIONS***

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**INTERPRETATION**

1. In these Regulations, “Act” means the *National Defence Act*.

**POLICING DUTIES AND FUNCTIONS**

2. (1) For the purpose of subsection 250.18(1) of the *Act*, any of the following, if performed by a member of the military police, are policing duties or functions:
  - a) the conduct of an investigation;
  - b) the rendering of assistance to the public;
  - c) the execution of a warrant or another judicial process;
  - d) the handling of evidence;
  - e) the laying of a charge;
  - f) attendance at a judicial proceeding;
  - g) the enforcement of laws;
  - h) responding to a complaint; and
  - i) the arrest or custody of a person.
- (2) For greater certainty, a duty or function performed by a member of the military police that relates to administration, training, or military operations that result from established military custom or practice, is not a policing duty or function.

**WHEN NO INFORMAL RESOLUTION**

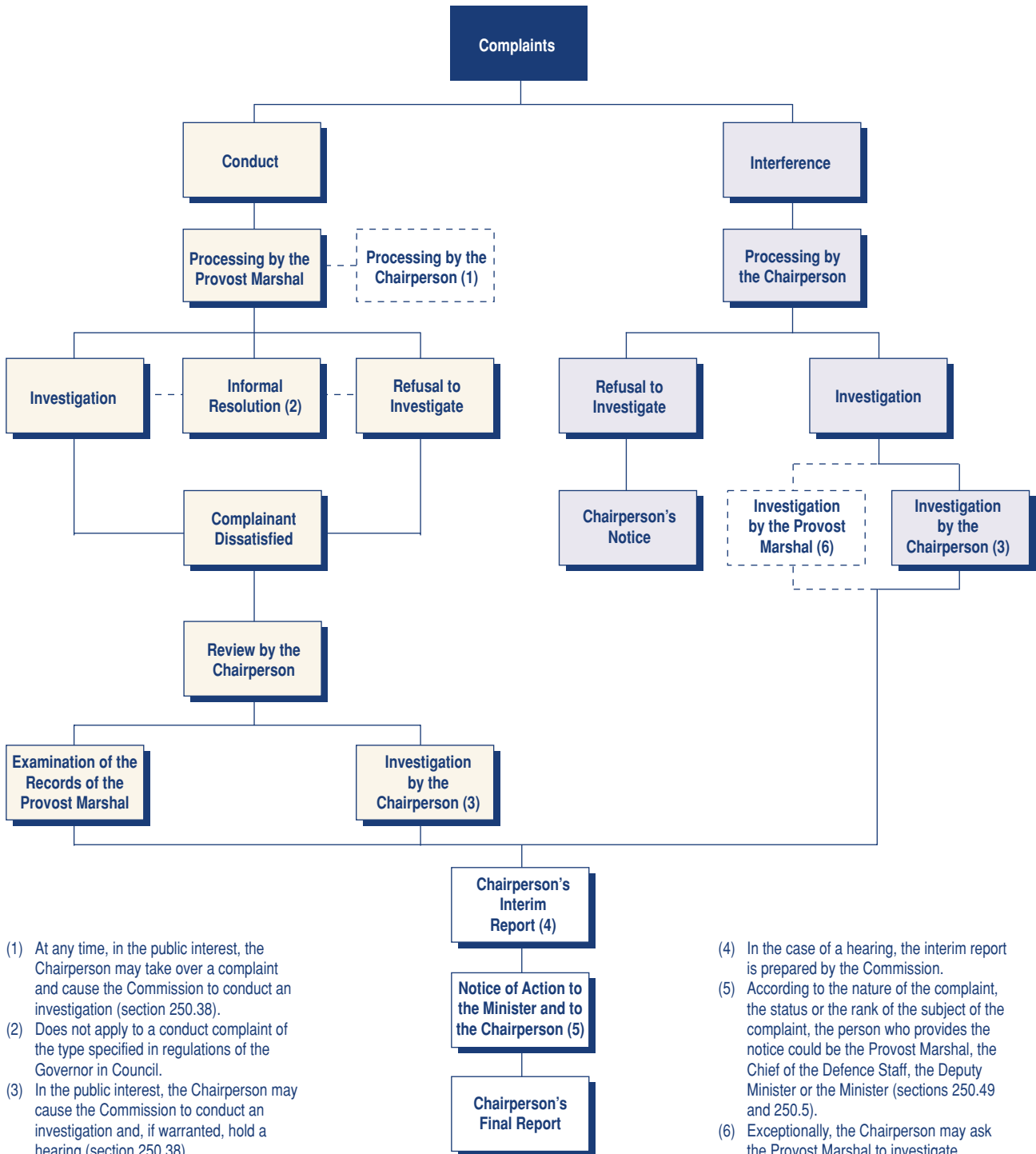
3. Subsection 250.27(1) of the *Act* does not apply to a conduct complaint of any of the following types:
  - a) excessive use of force;
  - b) corruption;
  - c) the commission of a service of civil offence;
  - d) policies of the Canadian Forces Military Police;
  - e) the arrest of a person;
  - f) perjury;
  - g) abuse of authority; or
  - h) conduct that results in injury.

**COMING INTO FORCE**

4. These Regulations come into force on December 1, 1999.

## ANNEX G

# COMPLAINTS HANDLING PROCESS



(1) At any time, in the public interest, the Chairperson may take over a complaint and cause the Commission to conduct an investigation (section 250.38).

(2) Does not apply to a conduct complaint of the type specified in regulations of the Governor in Council.

(3) In the public interest, the Chairperson may cause the Commission to conduct an investigation and, if warranted, hold a hearing (section 250.38).

(4) In the case of a hearing, the interim report is prepared by the Commission.

(5) According to the nature of the complaint, the status or the rank of the subject of the complaint, the person who provides the notice could be the Provost Marshal, the Chief of the Defence Staff, the Deputy Minister or the Minister (sections 250.49 and 250.5).


(6) Exceptionally, the Chairperson may ask the Provost Marshal to investigate.


## ANNEX H


# HOW TO REACH THE COMMISSION

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There are several ways to reach the Commission:


 Call our information line at **(613) 947-5625** or toll-free at **1 800 632-0566** and speak to an intake officer.

 Send us a fax at **(613) 947-5713** or toll-free at **1 877 947-5713**.

 Write us a letter describing your situation and mail it with any supporting documents to:

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

 Visit our office for a private consultation.  
*Appointments are recommended.*

 E-mail us at: **commission@mpcc-cppm.gc.ca**  
*Do not send confidential information.*  
*We cannot guarantee confidentiality at this time.*

 Visit our website at: **www.mpcc-cppm.gc.ca**