



Military Police
Complaints Commission
of Canada

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

IMPROVING SERVICE – CONTRIBUTING VALUE

2006 ANNUAL REPORT



MISSION

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

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THE MILITARY POLICE COMPLAINTS COMMISSION OF CANADA

March 31, 2007

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 Annual Report for 2006.

In this Annual Report, you will find a detailed discussion of all significant aspects of the Commission's activities during 2006, 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 introduce the 2006 Annual Report of Canada's Military Police Complaints Commission. It has been an interesting year, both for this Commission and for civilian oversight of police in Canada. The Military Police Complaints Commission ("The Commission" or MPCC) has seen a substantial increase in demand for its services and has undertaken significant steps for renewal of its organization and investigative procedures to meet those demands. The *Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar* – "Arar Inquiry" – has generated national and international interest in oversight of all of Canada's police and security agencies. This new interest in the critical role of oversight agencies carries with it a challenge for excellence in performance.

By way of highlights of 2006, the number of complaints under review or investigation by the Military Police Complaints Commission was double the number from 2005. Of the investigations completed by the Commission during 2006, several will have significant, long-term impact on military police practices.

As an example, the Commission's investigations of interference complaints in 2006 have led the Canadian Forces Provost Marshal to revise the *Military Police Policies and Technical Procedures* to clarify the proper role and responsibilities of military police supervisors in respect of supervisory interventions. These investigations have also added clarity to the proper relations between the military police and the chain of command. In bringing a clearer definition to what does and does not constitute prohibited interference, it is hoped that both command staff and military police personnel will benefit in their relationships and the performance of their duties.

In 2006, the Commission undertook the first public hearing in its seven-year history which will be reported on early in 2007 – and launched three new public interest investigations into especially serious or broadly publicized complaints about military police conduct. One of these cases – involving a complaint by a former sniper with the Canadian Forces who was honoured by the U.S. military for his outstanding service in Afghanistan – was the subject of national media attention in 2006, including the cover of Maclean's magazine.

I am very pleased that, while faced with a significant increase in its workload, the Commission has been able to implement a number of internal changes. These changes have improved our capacity to deal with complaints as effectively and efficiently as possible, and allowed the Commission to officially reduce its annual budget requirement by almost twenty percent.

By putting a new service standard and an accompanying compliance mechanism in place, the Commission expects to be able to resolve complaints in substantially less time than in the past. This improvement in efficiency will not be at the expense of quality. Newly developed investigative procedures are designed to maintain the highest standards while maximizing the benefits of standardization.



THE MILITARY POLICE COMPLAINTS COMMISSION OF CANADA

The Commission has also implemented more efficient investigative reporting procedures. These methods will avoid unnecessary steps when there are no investigative findings that require a response from Canadian Forces authorities. Just as important, efforts have been made to simplify and better highlight the key issues in those reports which do require a response to substantive findings and recommendations.

The results of the most recent Public Service Employee Survey, showing a high level of job and workplace satisfaction among Commission staff, were most gratifying, as were the positive results of a Public Service Commission audit of the Commission’s staffing practices. The work that has been done and the accomplishments that have been recorded over the past year speak volumes about the dedication and professionalism of the management and staff of the Commission.

Looking to the future, the “Arar Report” recommended government consideration of an enhanced role for the Complaints Commission; one that would make it an integral piece in a new national fabric of federal oversight agencies. At the same time the report noted that Bill C-7 (an *Act to Amend the National Defence Act*), which received first reading on April 27, 2006, “would have a significant impact on the operation of the MPCC”. The Commission agrees with Justice O’Connor’s assessment of a significant impact and is concerned that the passage of Bill C-7 would leave the Commission unable to credibly carry out its current role or any new and enhanced one. To ensure that parliamentarians were fully informed concerning the potential impact of Bill C-7, the Commission filed a brief with the Standing Committee on National Defence which explained those concerns and suggested alternatives for the way ahead. That brief is now available on the Commission’s Website – www.mpcc-cppm.gc.ca.

Managing the increased volume of work in 2006 was a major challenge for the Commission, particularly because it had only one sitting Member, the Chair. In addition to the Chair, legislation allows for as many as six part-time Members; historically, on average, three of these positions have been filled. I am hopeful that the Governor-in-Council will make additional appointments to the Commission in the year ahead.

In closing, I would also like to acknowledge the excellent cooperation of the Canadian Forces Provost Marshal, who shares our commitment to ensuring the Canadian Forces and all Canadians can take pride in a military police service of the highest professional calibre.

Peter A. Tinsley
Chair
December 2006





THE MILITARY POLICE COMPLAINTS COMMISSION OF CANADA



OVERVIEW OF THE MILITARY POLICE COMPLAINTS COMMISSION

PART ONE





The Commission...

The Military Police Complaints Commission was established by the Government of Canada on December 1, 1999 to provide independent, civilian oversight of Canada's military police service. Although there are differences from one jurisdiction to another, the Commission is similar to the civilian agencies or police boards that oversee police services across Canada, the United States, the United Kingdom, and many other countries.

The Commission's mandate is found in Part IV of Canada's *National Defence Act*, which sets out how complaints about the conduct of military police and complaints of interference with military police investigations are to be handled.



What it does...

The Commission oversees the military police complaints process, ensuring it is accessible, transparent, and fair to all concerned. It operates independently from both the Canadian Forces and the Department of National Defence.

Although the recommendations contained in the Commission's reports are not binding, if the Canadian Forces or the Department chooses not to act on any or all of them, they must provide an explanation to the Commission in a Notice of Action.

The military police complaints process...

As described in detail below, the *National Defence Act* sets out different mechanisms for dealing with complaints about the conduct of military police and with complaints of interference in military police investigations.

The Canadian Forces Provost Marshal (CFPM) – the chief of the military police – has primary responsibility for the investigation of complaints about the conduct of military police. The Commission has the authority to monitor the investigation and disposition of these complaints by the CFPM, and to independently investigate complaints as appropriate, such as upon request of the complainant.

"...an effective review mechanism will have to be concerned with systemic failures and deficiencies as much as with the failures of individuals within the organization. Effective review should seek to reform and discipline systems, even where it would not be possible or fair to discipline individuals."

The Hon. Dennis O'Connor
Commission of Inquiry into the Actions of
Canadian Officials in Relation to Maher Arar



THE MILITARY POLICE COMPLAINTS COMMISSION OF CANADA

The Commission has exclusive jurisdiction for the investigation of complaints of interference in a military police investigation.

When the Chair determines it is in the public interest, the Commission can exercise its power to assume immediate responsibility for the investigation of a conduct complaint and, if warranted, to hold a public hearing.

Adding value...

In addition to recommendations for the resolution of a particular case, the Commission’s reviews and investigations frequently also conclude with recommendations for improvements to military police procedures or policies that could prevent situations that give rise to similar types of complaints in the future. In doing so, the Commission supports the military police in maintaining the highest standards of professional conduct, and assuring the integrity of military police investigations.



+ CONDUCT COMPLAINTS

The Provost Marshal is responsible in the first instance for the investigation of complaints about the conduct of military police. These investigations are usually carried out by the Deputy Provost Marshal Professional Standards.

The Provost Marshal must notify the Commission when a complaint is received, and the Commission monitors the Provost Marshal’s handling of the complaint. At any time during the process, if the Chair determines it is in the public interest, the Commission can assume responsibility for the investigation of a conduct complaint.

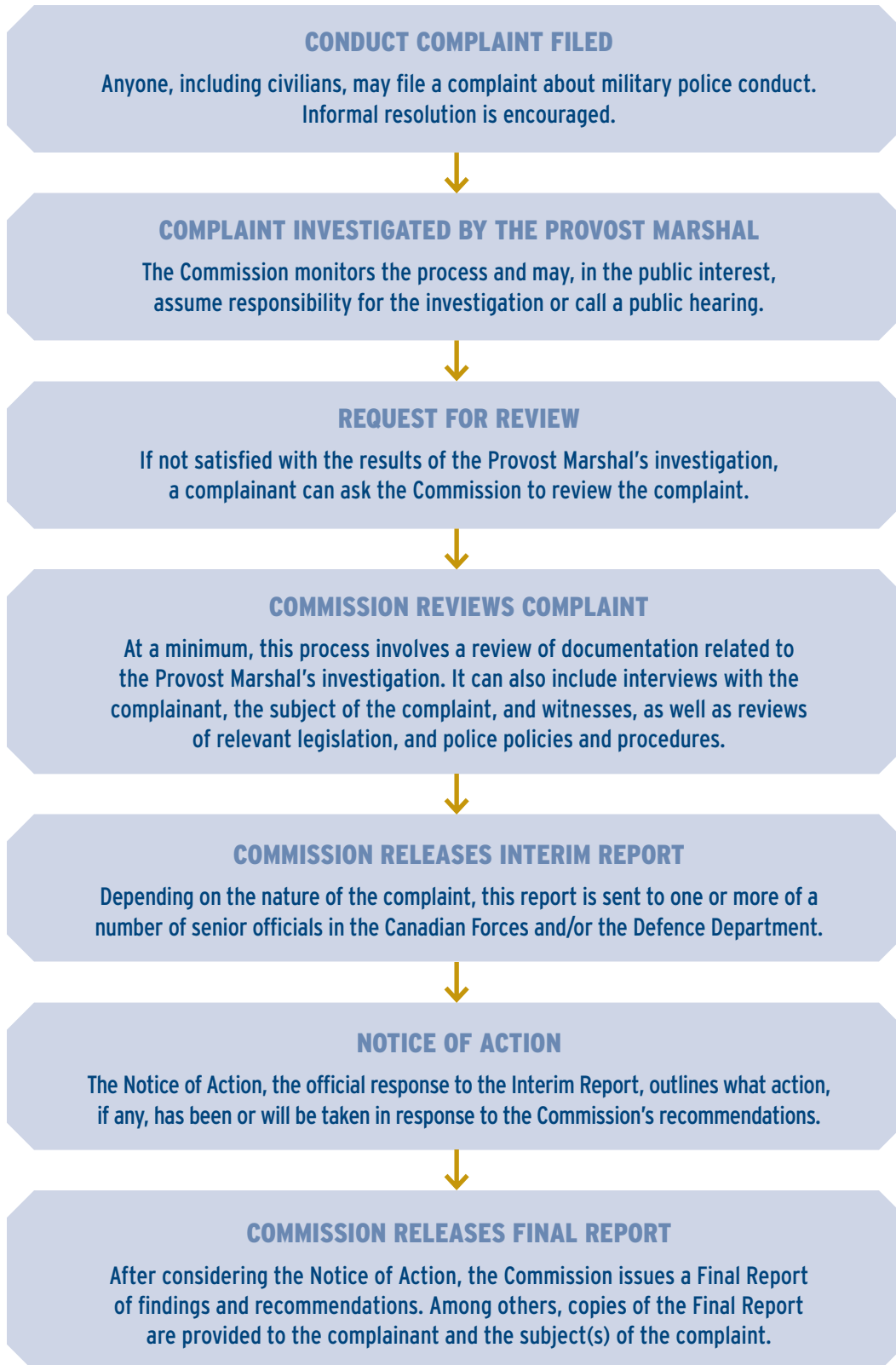
The complainant may request that the Commission review the complaint and how it was dealt with by the Provost Marshal. This review by the Commission is most often a new investigation of the complaint from a fresh perspective.

The Commission’s independent review may uphold the findings of the original investigation, or it may lead to new findings, as well as recommendations for an effective and fair resolution of the complaint.

The Commission may also recommend changes to military police policies or procedures in order to prevent or avoid similar situations in the future.



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PUBLIC INTEREST INVESTIGATION - WHAT IS IT?

The Commission uses its power to assume jurisdiction over a conduct complaint only when the Chair of the Commission determines it is in the public interest to do so.

In exercising his statutory discretion, the Chair considers a number of factors including, among others:

- ✦ Does the complaint involve allegations of especially serious misconduct?
- ✦ Do the issues involved have the potential to affect confidence in military police or the complaints process?
- ✦ Does the complaint involve or raise questions about the integrity of senior military or Defence officials, including senior military police?
- ✦ Are the issues involved likely to have a significant impact on military police practices and procedures?
- ✦ Has the case attracted substantial attention from the public or news media?

COMMISSION TO INVESTIGATE CASE OF CANADIAN SNIPER IN AFGHANISTAN

In 2006, for example, the Canadian media gave extensive coverage to the story of several members of the Canadian Forces who had been singled out for meritorious service as snipers in Afghanistan, but who later became the subjects of administrative actions as well as a lengthy investigation by military police.

At the request of the Chief of the Defence Staff, the treatment of the snipers was investigated by the Canadian Forces Ombudsman. With no mandate to investigate the actions of military police, the Ombudsman advised that this aspect of the complaint should be handled by the military police complaints process. A conduct complaint was subsequently received by the Commission.

Considering the complaints have gone unresolved for more than three years, the involvement of both the Chief of the Defence Staff and the Ombudsman, and the high profile of the case, rather than have the complaint investigated by the Provost Marshal, the Chair determined it would be in the best interest of all concerned, including the Canadian public, for the Commission to assume responsibility for the investigation of the complaint about the military police conduct.



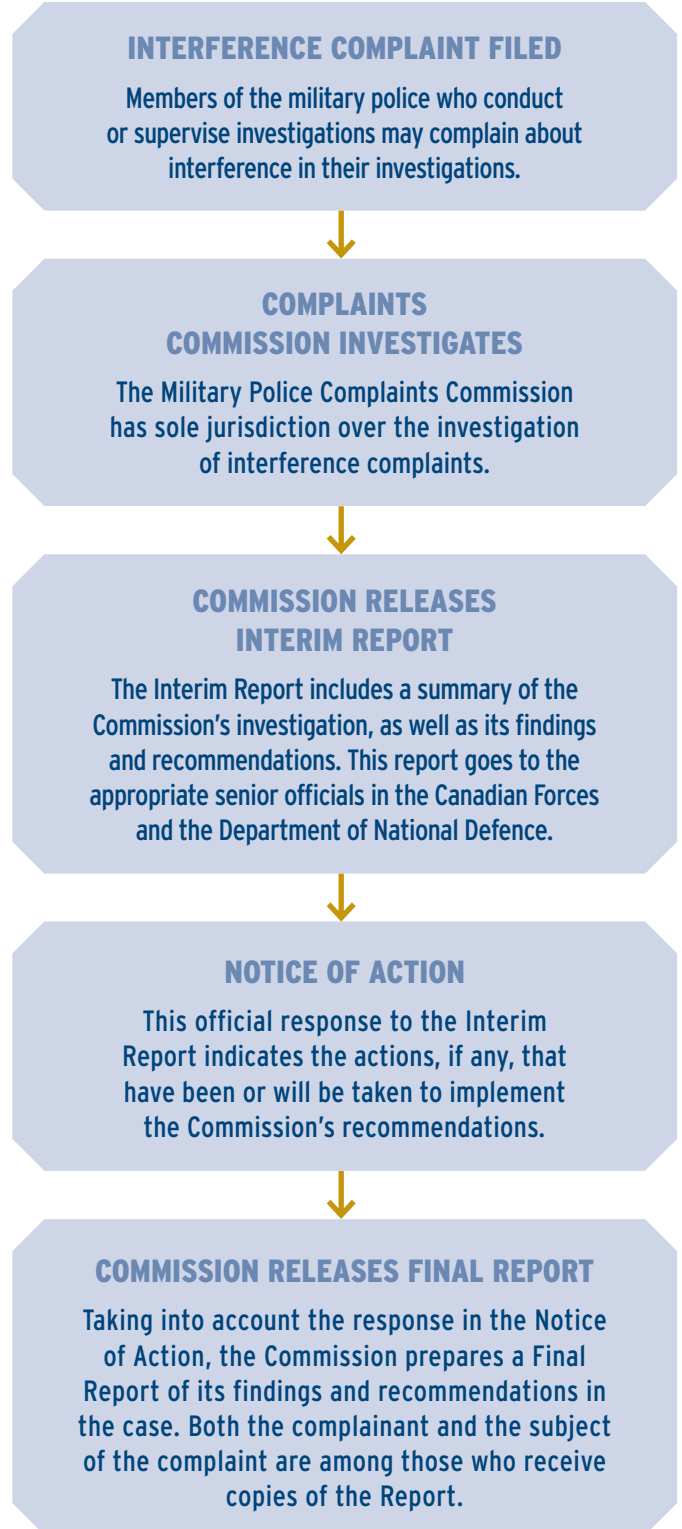
+ INTERFERENCE COMPLAINTS

Unlike its civilian counterparts, the Commission has the power to investigate complaints from military police who believe someone in the Forces or in the Department of National Defence has interfered with a military police investigation. This recognizes the special situation of military police, who are both peace officers and members of the Canadian Forces.

Like any police service, in order to maintain the confidence of the people they serve, military police must be seen as independent.

By allowing complaints of interference – and giving the Commission exclusive jurisdiction over them – the *National Defence Act* discourages anyone in the Canadian Forces or the Department from attempting to use their position to influence the way military police conduct their investigations.

A full description of the complaint process is available on the Commission's Website, at http://www.mpcc-cppm.gc.ca/200/200_e.aspx





THE MILITARY POLICE COMPLAINTS COMMISSION OF CANADA



2006 ACCOMPLISHMENTS

PART TWO





+ 2006 ACCOMPLISHMENTS

The Commission experienced a significant increase in demand for its core services of monitoring, reviewing and conducting investigations during 2006, with the number of investigations doubling to fourteen from seven the previous year. Despite this increased pressure on its resources, the Commission continued to refine its management processes and approach to client services to ensure the ongoing efficiency and effectiveness of its operations.

Detailed in this section of the Annual Report are some of the Commission’s major accomplishments in 2006, which included:

- + convening the Commission’s first-ever public hearing;
- + conducting investigations that have helped to clarify what does and does not constitute interference with a military police investigation;
- + developing and adopting a new service standard and a new approach to investigations to reduce the time required to resolve a complaint;
- + designing and launching a more streamlined and effective method of reporting Commission findings and recommendations;
- + organizing a comprehensive workshop to further improve and refine investigative processes;
- + completing an organizational study leading to a revision of internal structure and processes to bring greater focus to investigation files;
- + improving the Commission workplace and organization as demonstrated in the results of the recent Public Service Employee Survey;
- + increasing awareness within the Canadian Forces and the Military Police of the benefits of civilian oversight and of the military police complaints process through visits to a number of military bases;
- + making contributions to the work of several conferences and associations relevant to police oversight; and
- + reducing the Commission’s overall budget by 18%.





✚ MONITORING AND INVESTIGATIONS

In 2006, the Commission monitored the Canadian Forces Provost Marshal's investigation of 35 complaints about military police conduct, and the number of investigations by the Commission increased by 100 percent over the previous year. In addition, the Commission held the first public hearing in its history, and will issue a report on its findings and recommendations early in 2007.

MONITORING POWER...

"Clearly, the final say with respect to what information the review mechanism can access cannot lie with the entity being reviewed."

The Hon. Dennis O'Connor
Commission of Inquiry into the Actions of
Canadian Officials in Relation to Maher Arar

ACTIVITY	2003	2004	2005	2006	TOTAL
Conduct Complaints Monitored	34	46	52	35	167
Interference Complaints received	0	2	1	2	5
Requests for Review	2	8	5	9	24
Public Interest Investigations/ Hearings Commenced	0	2	1	3	6
Files	36	58	59	49	202
Interim Reports	4	4	11	4	23
Final Reports	5	2	12	11	30
Findings	207	131	243	63*	644
Recommendations	46	36	42	20*	144
Percentage of recommendations accepted	90%	33%	67%	100%	

Investigations were opened into nine requests for review of the Provost Marshal's handling of conduct complaints, three public interest investigations were in progress in 2006, and the Commission dealt with three complaints of interference.

In 2006, all the Commission's findings and recommendations arising from its investigations were accepted by the Canadian Forces Provost Marshal or the Chief of the Defence Staff.

* The smaller number of findings and recommendations in 2006 reflects the new approach to reports, in which findings and recommendations are consolidated where possible to facilitate the response by the CF authorities.



Better investigations, better processes

Conducting reviews and investigations of complaints is an exacting and often complex undertaking. To maintain confidence in the military police complaints process, and to ensure fairness and transparency, the Commission’s investigations must be, and must be seen to be, of the highest quality. Fairness demands that the Commission complete its investigations and report its findings without undue delays, and it must therefore ensure that the limited human and financial resources available to it are deployed as efficiently as possible.

In 2006, the Commission adopted a new service standard for completion of its reviews, reducing the target time to complete a review or investigation from the previous standard of eight months down to five-and-one-half months. As part of this initiative, a larger team of contract investigators was assembled and this has helped to ensure sufficient resources are available on short notice to meet the variable demand for these services.

COMMISSION LAUNCHES INNOVATIVE APPROACH TO REPORTING ON REVIEWS AND INVESTIGATIONS

The *National Defence Act* states that the Commission is to deal with complaints “as informally and expeditiously as the circumstances and the considerations of fairness permit.” To further expedite the handling of complaints, in cases where the Commission’s investigation does not produce any findings or recommendations that require a response from the Provost Marshal or the Chief of the Defence Staff, it combines the Interim and Final reports into a Concluding report to which the receiving authorities need not reply.

To ensure its investigations continue to be of the highest quality, the Commission assigns both a lead and an assisting investigator to each case. This is recognized as a best practice in terms of assuring confidence in the results of an investigation. Adding a second investigator often means an investigation can be completed in a shorter period of time as well.

The Commission expects to gain further efficiencies from the adoption of new standardized practices for investigations, ensuring each step in the process builds on the previous step. (See “How the Commission Reviews Complaints,” box on page 15.)

The Commission also invested in new equipment and technology for investigators, allowing them off-site access to the Commission’s secure network. Adding the capacity for secure transmission of confidential data means investigators are more efficient.



✦ CASE SUMMARIES

CASE No. 1 - CONDUCT COMPLAINT

The review of this conduct complaint highlights the role of the Commission in assuring the complaints process is fair to all concerned. Without the Commission's review of this complaint, crucial evidence would not have been considered, and inaccurate and unfair criticism of the complainant would have become a permanent part of his service record.

This case also shows why it is important that the Commission have access to the advice military police receive from their legal advisors. While it is not the function of the Commission to judge the quality of the legal advice given to military police, knowing whether military police acted in good faith on that advice can be critical to the fair resolution of a complaint.

The incident

Responding to concerns expressed by the mother of a young person arrested by military police who was reluctant to become involved in the complaint process, the commanding officer of a Canadian Forces Military Police Detachment filed a conduct complaint against two members of the detachment. The complaint alleged the MPs violated military police procedures by using handcuffs during the arrest of the young person.

Because the arrest was made in an area of Canadian Forces housing that is adjacent to, but not actually part of, a Canadian Forces Base, the investigation by the Canadian Forces Provost Marshal quickly expanded to include questions of military police jurisdiction.

The Deputy Provost Marshal Professional Standards concluded that the area in which the arrest took place was outside military police jurisdiction. As a result, the MPs' commanding officer – who made the original conduct complaint on behalf of the mother – became a subject of the complaint, for allegedly ordering MPs to patrol an area outside their jurisdiction.

While concluding that the use of handcuffs on the young offender was not justified, the investigation was also highly critical of the commanding officer, who was found to have ordered his MPs to police an area without making sure that it was within their jurisdiction.

The request for review

The complainant – the MP commanding officer – asked the Commission to review the handling of his complaint, on the grounds that the Professional Standards investigation should not have included the issue of jurisdiction, since it was not part of the original complaint. The complainant also stated that the investigation did not take into account that, in ordering MPs to police the off-base housing area, he was responding to an order from his Base Commander, and acting on advice from the Deputy Judge Advocate (a military lawyer).



HOW THE COMMISSION REVIEWS COMPLAINTS

After making a preliminary review of the request for review, a Commission lawyer briefs the Chair, who determines how the case will be handled.

A lead investigator is assigned and, with a Commission lawyer, reviews the evidence and other materials gathered during the Provost Marshal's investigation of the complaint - this could be hundreds of pages of documents, emails, handwritten notes and reports, and many hours of audio and video interviews with witnesses.

The lead investigator then prepares an Investigation Plan, setting out the goals, timelines and budget for the investigation, as well as the lines of inquiry to be pursued, all of which must be approved by the Chair or assigned Member of the Commission. The lead and an assisting investigator then conduct a detailed examination of the material from the Provost Marshal; review any relevant legislation, policies and regulations; and arrange and conduct interviews with witnesses.

The investigators' comprehensive report is reviewed by a Commission lawyer and submitted to the Chair or Commission Member assigned to the case.

Subject to any necessary further enquiries, the Commission then issues an Interim Report of findings and recommendations, which goes to the appropriate officials in the Canadian Forces and/or the Department of National Defence.

The designated official reviews the Interim Report and responds with a Notice of Action, indicating agreement or disagreement with each of the Commission's findings and recommendations. After considering the Notice of Action, the Commission Member prepares a Final Report on the case, which is distributed to all parties, including the complainant and the subject(s) of the complaint.

The Commission's review

In the first instance, the Commission found no fault in the Provost Marshal's decision to add the question of MP jurisdiction to the investigation. Determining whether MPs were arresting people outside their jurisdiction was certainly relevant to the case, and something that could have an immediate and important impact on military police procedures.

On the second question, the Commission found documented evidence that the Base Commander did, in fact, order the complainant to have military police patrol the off-base housing area, and to respond to any criminal activities they might observe there.

Moreover, the Commission found the complainant should not have been criticized for accepting at face value the opinion of the Deputy Judge Advocate. The Canadian Forces Provost Marshal also agreed with this finding, stating that it would be "highly irregular" for a member of the military police to question or conduct independent research on legal advice provided by a Canadian Forces legal officer.



COMMISSION CONDUCTS ITS FIRST-EVER PUBLIC HEARING



The Commission convened its first-ever “public interest” hearing in March to examine a complaint about the conduct of members of the military police involved in the investigation of young person suspected in an alleged sexual assault at a cadet camp in western Canada.

The complaint was filed by the mother of the young person, who alleged the military police members used inappropriate and unlawful techniques in interviewing and investigating her son, violating his rights under Canada’s *Charter of Rights and Freedoms*.

With the Chair of the Commission presiding, the public hearing began in March of 2006. A number of motions were presented by counsel for the various parties, with the Chair making rulings in response, including a ban on publication of any information relating to the minors involved, and who would be granted intervenor status at the hearing.

The hearing adjourned, resuming in late September for the evidentiary portion of the proceedings. This involved a total of seven parties, six of whom were represented by counsel. Subpoenas were issued to seven witnesses, who were examined by counsel for the Commission, and cross-examined by counsel for the other parties during the five days of hearings. Several hundred pages of documents were entered as evidence.

Numerous issues surrounding the conduct of the sexual assault investigation were explored during the public hearing. The overall thoroughness, objectivity, and diligence of the investigation were examined, as well as the management and supervision of the investigation by the investigators’ superiors. The hearing looked closely at the brief to the Crown Attorney prepared by the military police as the basis for their recommendation that charges be laid against the young person, and examined whether all of the evidence was fully and accurately represented in that brief.



After hearing all of the evidence, written submissions from the parties were accepted by the Commission until November 20, 2006. The Commission will release the Interim Report of the Chair’s findings and recommendations early in 2007.



CASE No. 2 - CONDUCT COMPLAINT

Maintaining public safety, and identifying situations that could compromise public safety, are important responsibilities for police. For military police, who serve a population surrounded by risk, carrying out this responsibility can be a challenge.

In this case, the Commission helped to establish that military police must have the discretion to determine when the inherent dangers of military service exceed what would be considered normal.

The incident

During a training exercise at a Canadian Forces Base, a member of the Canadian Forces Reserves was involved in a minor collision while driving a military vehicle. After interviewing the Reservist a couple of days later, a member of the military police (MP) blamed the collision, in part, on the Reservist's lack of sleep.

The complaint

The Reservist complained that the MP who interviewed him after the incident should not have done so, given the Reservist's sleep-deprived state nor, for the same reason, should the MP have allowed the Reservist to return to his training after the interview. The complainant also stated that the MP had a duty to investigate why the Reservist was suffering from a lack of sleep.

An investigation by the Deputy Provost Marshal Professional Standards found the MP in question had acted properly.

The Commission's Review

Police are obliged to take into account the health and well-being of the subject before they proceed with an interview. In this case, while the MP noted that the Reservist appeared tired, he also observed that the man seemed capable of giving an accurate description of the incident. As well, the Commission found nothing to indicate the Reservist asked the MP to postpone the interview, or said anything to suggest he was not able to answer questions.

While aware that lack of sleep was a factor in the vehicle collision, the MP was also aware that the Reservist was among a large number of people participating in an intensive training exercise. From his personal experience, the MP knew that all of the trainees would be functioning on very little sleep. Since the Reservist did not ask for help or to be kept out of the training, the Commission found the MP had no reason or authority to intervene.

"Where policing is concerned, confidence and trust in the police is critical to effective policing, which in turn is vital to preserving public safety."

The Hon. Patrick J. Lesage, Q.C.
Former Chief Justice, Ontario Superior Court
Review of the Police Complaints System
in Ontario, April 2005





As for third issue – that the MP should have investigated why the Reservist was not getting enough sleep – the complainant himself acknowledged that he did not make any allegations of negligence or misconduct related to the training during his interview with the MP. Thus, the Commission found no fault in the MP’s decision to confine his investigation to the vehicle collision.

It is interesting to note that this incident was one of three minor collisions that happened during the same training exercise, all of which military police attributed at least in part to trainees’ lack of sleep. A military police supervisor reviewing the accident reports noted the similarities, and drew these to the attention of the chain of command. As a result, changes were made to standing orders at the base to ensure a proper balance between the demands of training and the need to maintain safety.

CASE No. 3 - CONDUCT COMPLAINT

Members of Canadian Forces Military Police have jurisdiction as peace officers over all persons when enforcing the laws of Canada in any area under the control of the Department of National Defence (DND).

In reviewing this complaint, the Commission was able to make clear that in dealing with an occurrence on DND property, military police have the authority, when necessary, to extend their investigations to include civilians and civilian areas.

“A primary objective of review is to maintain public confidence in the agency subject to review.”

The Hon. Dennis O’Connor
Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar

The incident

A civilian police service in eastern Canada received a tip that a person living in their jurisdiction was trafficking in a controlled substance on a nearby Canadian Forces Base. The suspect was working on the Base, where he was an employee of a civilian company under contract to DND. The civilian police contacted the military police, who agreed to assist in the investigation. Along with gathering information on the suspect, several members of the military police also took part in the execution of a search warrant at the suspect’s home in the civilian community near the Base. The search revealed a marijuana “grow-op”.

The civilian police charged the man with production of a controlled substance and possession of a controlled substance for the purpose of trafficking. The military police involved informed their superiors of the outcome of the investigation. This information was, in turn, passed on to the chain of command, which, on grounds of security, denied the man access to his worksite. Without such access, the man could not do his job on the Base, and his employer laid him off.



The complaint

The man complained that military police did not have authority or jurisdiction to be part of a civilian police investigation of a civilian who lived in a private residence not on DND property. He also complained that military police did not have the authority to inform the chain of command of the charges against him, a move that, as he saw it, cost him his job.

The Commission's review

The Commission found that the military police, having been informed by a civilian police service that a person employed on the Canadian Forces Base might be engaged in illegal activity on the Base, were acting within their authority and jurisdiction when they assisted in the investigation. In fact, the Commission found military police had a duty to assist, given their responsibility to enforce the laws of Canada on DND property.

The Commission also found that the military police involved in the investigation, as would be the case in any police service, had a duty to inform their military police supervisors of the outcome of the investigation. The military police supervisors had a similar duty to inform the chain of command; military police policy states that, "Commanders have the operational need to know who in their command is under investigation." Considering the chain of command's ongoing responsibility to safeguard security at the Base, this is a rational policy. Moreover, the information was in the public domain with the laying of the criminal charges.

CASE No. 4 - INTERFERENCE COMPLAINT

The idea of interference in a military police investigation is generally thought of in terms of a senior officer in the chain of command attempting to influence an investigation. In this case however, the allegation of interference was directed at a military police supervisor. In absolving the supervisor of any misconduct, the Commission's investigation of this complaint helped to clarify what does and does not constitute "interference" under the *National Defence Act*. It also led the Canadian Forces Provost Marshal to amend the *Military Police Policies and Technical Procedures* so that actions taken by military police supervisors with regard to investigations are recorded in a consistent and timely fashion.

AN ONGOING INTERFERENCE FILE

The Commission conducted another major interference investigation during 2006, involving a complaint against a senior officer in the Canadian Forces. The military police complainant alleged that the officer had interfered with evidence related to the military police investigation into the death of a member of the Forces.

Details of the case will not be released until sometime early in 2007. This case is also expected to have a significant impact on the definition and concept of interference by someone in the chain of command.



The incident

After responding to a disturbance on a Canadian Forces base, a military police member decided to lay a criminal charge of uttering threats against a man. The MP did the necessary paperwork near the end of his shift, planning to complete the process the following day. In the meantime, the MP's supervisor asked a second MP to find out whether this was a case where the Crown might agree to withdraw the charge if the accused signed an undertaking such as a peace bond – if so, military police could avoid the time and effort involved in prosecuting the case. This MP learned that, in the circumstances, and provided the victim consented, a peace bond was indeed a likely outcome.

With the supervisor's agreement, this MP contacted the victim, who asked for a few days to think about the peace bond idea. This second MP then sent an email to the investigating MP to fill him in on the steps that had been taken while he was off duty.

Unfortunately, this email was worded rather ambiguously, and left the investigating MP with the impression that his supervisor had unilaterally overruled his decision to charge the man, and was pursuing a peace bond to resolve the case without consulting him. The MP filed a complaint of interference against his MP supervisor.

The Commission's investigation

After reviewing the documentary evidence and the relevant sections of the *Military Police Policies and Technical Procedures*, as well as interviewing a number of witnesses, the Commission found that the actions of the supervising MP did not constitute interference with the MP's investigation.

The Commission found no evidence to indicate that the supervisor was seeking to overrule the MP's decision to lay a charge. Even if he did, this would not necessarily amount to interference, given his role and authority as a military police supervisor. While military police policies provide some guidance in this area, the Commission found the policy could be more definitive in describing a supervisor's responsibility and authority to override the decision of a uniformed police officer to lay a charge.



In concluding the investigation, the Commission also found that the complaint of interference might not have arisen had the supervisor’s actions and the reasons behind them been communicated more clearly to the complainant. The Commission recommended that military policies in this area be clarified.

The Chief of the Defence Staff accepted all of the Commission’s findings and recommendations in this case, and agreed that the findings regarding interference in particular provide a useful reference for MPs and their supervisors in the future.

CASE No. 5 - INTERFERENCE COMPLAINT

The Incident

A second interference complaint investigated by the Commission in 2006 came from an MP who alleged a military commander at another Canadian Forces Base interfered with his investigation by insisting the MP go through the chain of command to arrange interviews with witnesses who were members of his unit.

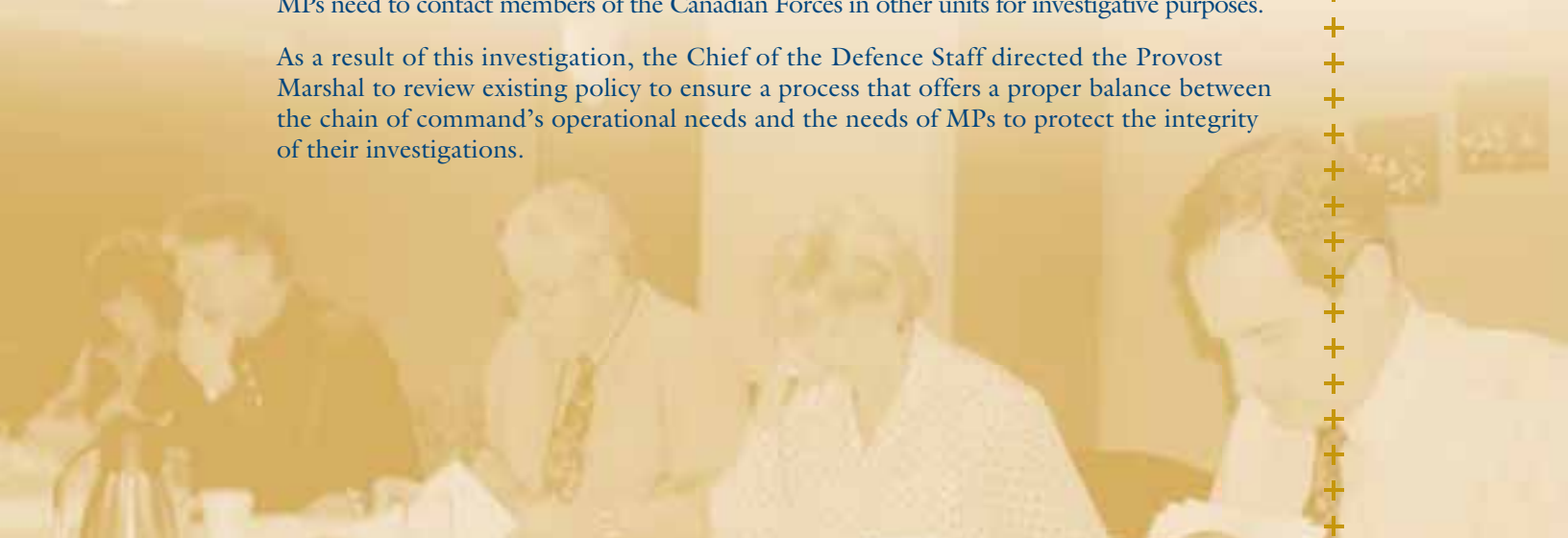
The MP was equally insistent that, to maintain the integrity of the investigation, he had to contact the witnesses directly.

The Commission's Investigation

The Commission’s investigation noted that commanders have an operational need to know when personnel in their command are part of an MP investigation, but there may also be instances where informing the chain of command could compromise an investigation.

In order to resolve what has been a long-standing area of conflict between MPs and the chain of command – and generate fewer complaints of this type in the future – the Commission recommended the Canadian Forces develop a policy setting out the process to be followed when MPs need to contact members of the Canadian Forces in other units for investigative purposes.

As a result of this investigation, the Chief of the Defence Staff directed the Provost Marshal to review existing policy to ensure a process that offers a proper balance between the chain of command’s operational needs and the needs of MPs to protect the integrity of their investigations.





+ OUTREACH AND PROFESSIONAL DEVELOPMENT

To achieve the full value of civilian oversight of military police, it is essential that the community served by the police is aware of the complaints process and the role of the Commission. It is just as important for military police to understand the role of the Commission in assuring their rights in the process.

The Commission continued an active program of outreach in 2006, including visits to Canadian Forces Bases in Trenton and Borden. Commission staff met with a number of groups at the two bases, including military police, the chain of command, and military community service agencies. Base authorities were most accommodating and helpful in arranging these visits.

In February, the Chair and senior Commission staff participated in discussions about policy and procedures of mutual concern with the Canadian Forces Provost Marshal and members of his staff. At this meeting, the Provost Marshal and the Commission made a commitment to meet informally to discuss such issues at least twice a year. A follow-up meeting was held in the fall. As well, the Chair of the Commission was invited to speak at a Canadian Forces National Investigation Service conference (the National Investigation Service is the military police equivalent to a civilian police “major crimes unit”). The Commission considers these activities to be important contributors to a cordial, professional and productive relationship.

Several members of the Commission’s staff are active in the national and international civilian oversight community, assuring the Commission continues to benefit from the experience of others in similar positions across Canada and around the world. A number of staff attended the 2006 Annual Conference of the Canadian Association of Civilian Oversight of Law Enforcement (CACOLE), where Commission Chair Peter Tinsley was elected vice-president of the Association. The Commission also facilitated having the Canadian Forces Deputy Provost Marshal Professional Standards as a presenter at the Conference. More than a dozen countries were represented, and the first steps were taken toward the organization of an international association of agencies involved in police oversight.

Two of the Commission’s counsel are members of the executive of the Military Law Section of the Canadian Bar Association, and legal staff from the Commission attended the Section’s annual professional development seminars in 2006.



+ MANAGING FOR OPERATIONAL EXCELLENCE

A number of positive developments demonstrated the results of efforts to make the Commission an effective, efficient organization, and a “workplace of choice” within the Government of Canada.

Among the highlights for 2006 was the release of the 2005 Public Service Employee Survey. Commission employees rated the organization highly in every category for workplace and job satisfaction.

In June, the Commission’s General Counsel and Secretary, Ms. Johanne Gauthier, was named one of only nine recipients of the Public Service Award of Excellence in the Management Excellence category.

In presenting the award, the Public Service Human Resources Management Agency of Canada stated that,

“Ms. Gauthier took over as General Counsel and Secretary of the Military Police Complaints Commission of Canada during an intense period of workforce adjustment. Thanks to her leadership and excellent skills in change management, the employees made it smoothly through what promised to be a difficult transition period. With the employees’ well-being at heart, she even took charge of the professional development of those affected by the restructuring.

Ms. Gauthier worked with union representatives to better respond to employee concerns and improve their work environment. In addition, her communications initiatives strengthened the relationship between the Commission and the various Canadian Forces stakeholders. During this period, Ms. Gauthier assumed the duties of Vice-President of the Canadian Association for Civilian Oversight of Law Enforcement, helping to raise the profile of the federal organizations that provide this type of service.”

In October of 2006, the Public Service Commission (PSC) reported on its follow-up audit of staffing practices at the Complaints Commission. The PSC reported that the Commission had improved its staffing systems and practices and fully responded to recommendations made in the previous audit done in 2004.

Finally, the MPCC completed a study to reorganize internal responsibilities that will refocus the emphasis on core business, that is, on the operational files. The new organization chart is available at Annex B.



STEWARDSHIP

In the early part of 2006, the Government of Canada accepted the Commission’s request to reduce its annual budget allocation by some \$760,000. This represents a reduction of almost one-fifth in the Commission’s overall budget.

The Commission embarked on a formal program of technology renewal in 2006. Similar to technology management programs in place at many leading organizations, this “evergreen” strategy involves upgrading or replacing the Commission’s technological assets on a cyclical basis, allowing for more effective financial planning. Although the launch of this program required a larger-than-usual capital outlay in 2006, expenditures on technology in future years will be lower and more predictable.

The Commission completed an office and workspace redesign in 2006, resulting in lower accommodation costs, and achieved additional cost efficiencies by increasing its use of outsourcing to acquire skilled resources that are not required on a full-time basis. For example, the Commission regularly contracts for temporary assistance in investigations, human resources and staffing, financial management services, records management and informatics services.

2006-07 Expenditures - 1

(in thousands of dollars)

Fiscal Year	Allocation (Main Estimates)	Expenditures				Unspent
		Operations	Salaries	Employee Benefit Plans	Total Expenditures	
2002-2003	4,278	1,654	1,655	332	3,641	636
2003-2004	4,126	1,380	1,831	334	3,545	560
2004-2005	4,064	1,346	1,391	248	2,985	1,079
2005-2006	4,176	1,195	1,270	238	2,703	1,456
2006-2007 *	3,416	1,722	1,180	297	3,199	217

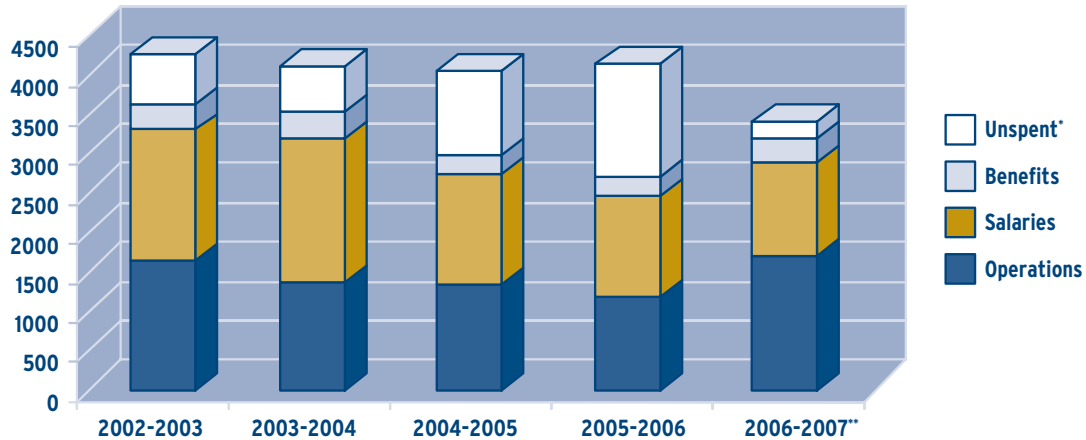
* *Planned spending for fiscal year ending March 31, 2007*



THE MILITARY POLICE COMPLAINTS COMMISSION OF CANADA

2006-07 Expenditures - 2

(in thousands of dollars)



* returned to federal treasury

** Planned spending for fiscal year ending March 31, 2007

Commission expenditures related to operations increased by approximately \$500,000 in 2006 (final figures will be available at the end of the fiscal year on March 31, 2007).

A number of factors contributed to this increase, including a doubling of the Commission’s active cases, and the costs associated with the conduct of a public hearing (the Commission is required to reimburse witnesses for travel costs and other expenses related to their attendance at the hearing).

Also, as noted elsewhere in the report, the Commission now assigns both a lead and an assisting investigator to investigations and has changed other investigation policies to meet the highest investigative standards.

The increased expenses in these areas – partially offset by efficiencies in other parts of the organization – is reflected in the Commission’s slightly higher total expenditures for 2006.



IN CONCLUSION

At the Military Police Complaints Commission, our goal is nothing less than excellence in everything we do. That is what Canadians expect of their public institutions, and it is what we demand of ourselves.

While meeting the demands of a heavy caseload in 2006 was a challenge, the Commission continued to deliver on its commitment to protect and enhance the integrity of the complaints process, at the same time ensuring the resources invested in that process are used as effectively and efficiently as possible.

Above all, the Commission's activities and accomplishments of the past year show it is not merely committed to, but is achieving value in all areas of its operations. The Commission continued to refine its approach to investigations, reports, administration and financial management in 2006, demonstrating a flexible organization with both the willingness and the capacity to innovate.

The Commission's commitment to continuous improvement includes not just the Commission itself, but Canadian Forces Military Police as well. Indeed, this is the Commission's *raison d'être* – not to criticize, but to contribute to the highest standard of professionalism in Canada's military police and thereby ensure the confidence of the community.

This is why, in its reviews and investigations of complaints, the Commission examines not only the incident of immediate concern, but considers and recommends ways similar incidents could be avoided in the future. Since its establishment, the Commission's investigations have prompted improvements in military police policies and procedures. These improvements do more than demonstrate the value of civilian oversight. They also assure members of the Canadian Forces and all Canadians that they are being served by a military police service of the highest calibre, with an equal commitment to excellence.

In April of 2006, all Canadians were reminded of the special commitment made by those who choose a career in Canada's military police. Corporal Matt Dinning and Corporal Randy Payne, both military police members, were among four Canadian soldiers who perished when their vehicle was destroyed by a roadside bomb in the Kandahar region of Afghanistan.

On behalf of everyone at the Military Police Complaints Commission, I respectfully offer our sincere condolences to the families of these young men, and to their comrades in the Canadian Forces.

Peter A. Tinsley
Chair



ANNEXES
PART THREE





✦ ANNEX A - CHAIR OF THE COMMISSION



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.

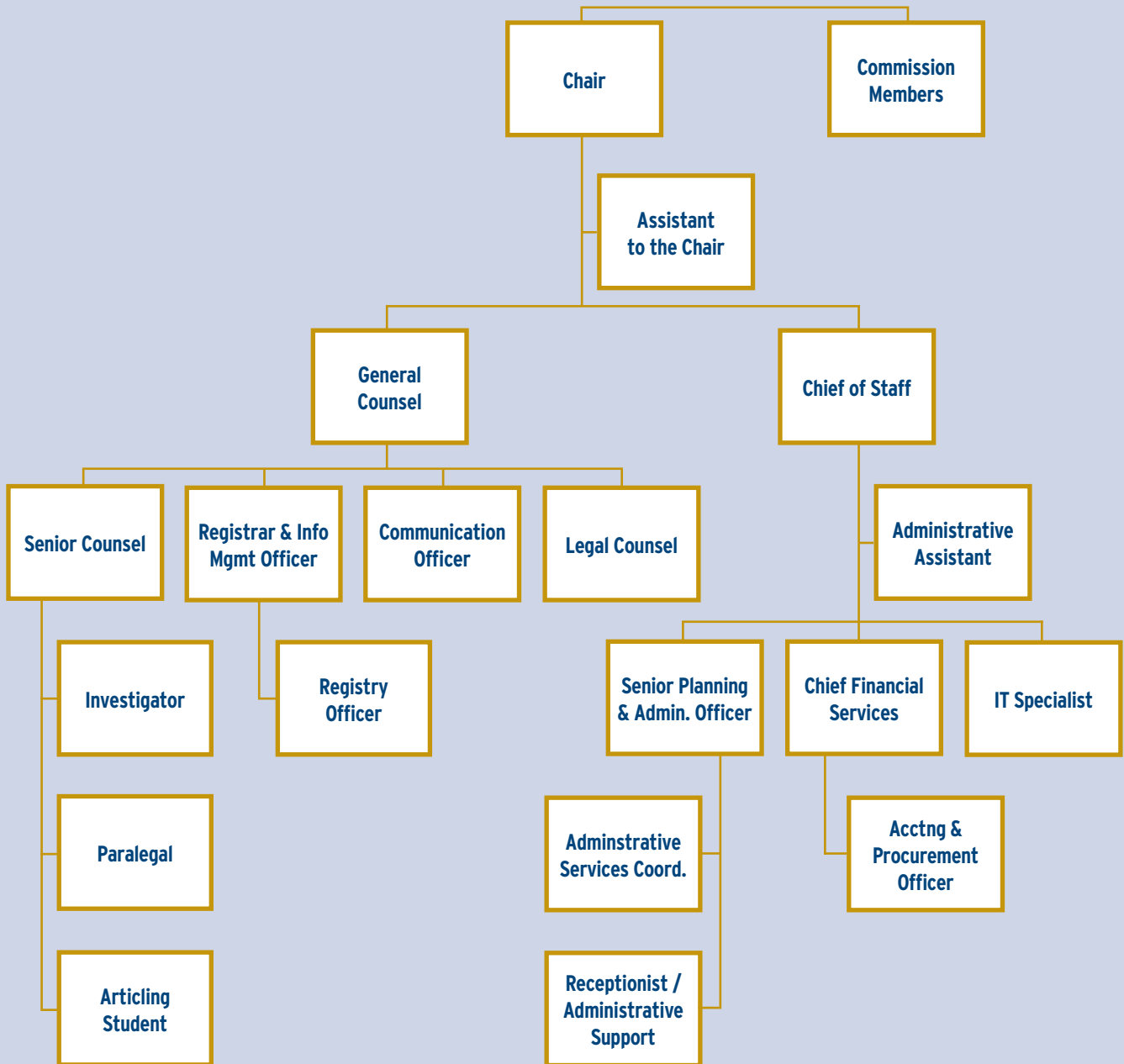
Prior to his appointment as Chair of the Complaints Commission, Mr. Tinsley was serving as one of four International Prosecutors appointed by the High Representative in the newly created Special War Crimes Department of the State Court of Bosnia and Herzegovina. Previously, from August 2003 until July 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 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 member of the military police and later, as a lawyer. In the latter capacity, he performed a lead role in the prosecution of Canadian Forces members in regards to acts committed in Somalia.



ANNEX B – ORGANIZATION CHART





+ ANNEX C – HOW TO REACH THE 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**

