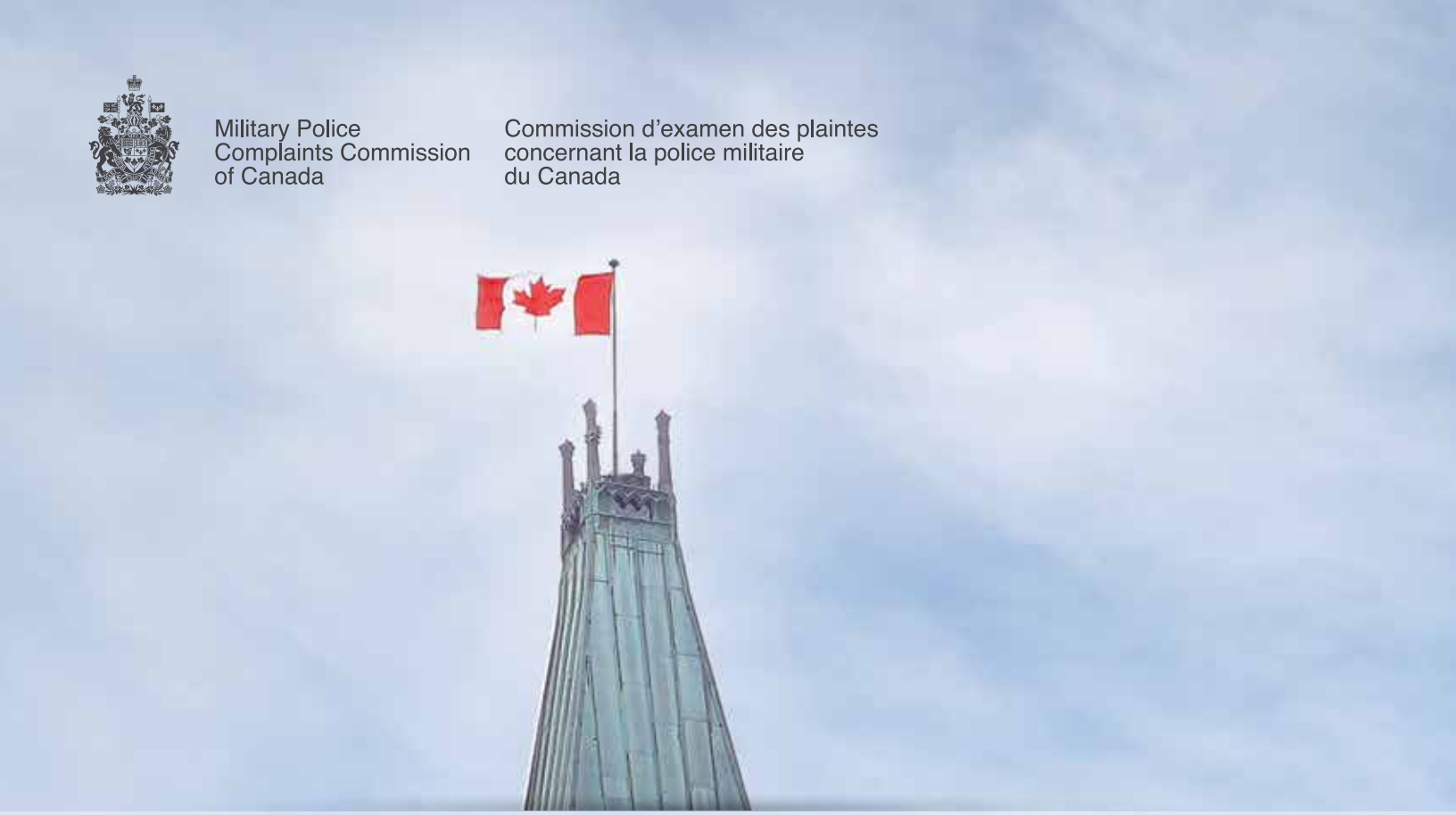
Military Police Complaints Commission of Canada

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



— 2017 ANNUAL REPORT —

OVERSIGHT & FAIRNESS

Timely • Responsive • Independent

Canada

For an electronic version of the publication, please consult the Military Police Complaints Commission of Canada's website at mpcc-cppm.gc.ca.

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LETTER OF TRANSMISSION TO THE MINISTER

March 30, 2018

The Honourable Harjit Sajjan, P.C., M.P.
Minister of National Defence
National Defence Headquarters
Major-General George R. Pearkes Building
Ottawa, Ontario K1A 0K2

Dear Minister:

In accordance with subsection 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 of Canada's *2017 Annual Report*.

In this annual report, you will find a detailed discussion of all significant aspects of the Military Police Complaints Commission of Canada's activities during 2017, including summaries of some of its reviews and investigations of complaints.

All of which is respectfully submitted.

Yours truly,

Hilary C. McCormack, LL.B.
Fellow Litigation Counsel of America
Chairperson

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CHAIRPERSON'S MESSAGE

It gives me great pleasure to present the Military Police Complaints Commission of Canada's 2017 Annual Report.

Our theme this year is OVERSIGHT AND FAIRNESS: Timely, Responsive, Independent – words that represent crucial elements of the Commission's mandate to provide civilian oversight of the Canadian Armed Forces (CAF) Military Police (MP), a unique police service in Canada.

The choice of theme is also informed by the Commission's ongoing personal contact with military police rank-and-file and their supervising officers. These outreach visits are an important part of our work and this year I was privileged to visit Vancouver Island military bases at Nanoose Bay, Esquimalt and Comox. Additionally, Commission staff visited Chilliwack, BC; Trenton, ON; Valcartier, QC; Bagotville, QC and the Canadian Forces Military Police Academy (CFMPA) at Borden, ON.

These outreach visits provide us the opportunity to explain the importance and benefits of civilian oversight. We welcome the opportunity to hear the questions and opinions of military police personnel and learn about their challenges. These informal interactions give us a better understanding of the context in which MPs work.

An investigation into a complaint can be stressful and time consuming for those involved, and especially for the military police member who is the subject of the investigation. However, the independent civilian review provided by the MPCC brings a greater level of objectivity, fairness, and therefore added confidence, to the complaints resolution process.

Without independent oversight, some would question the results of a purely internal complaints process. This is an important part of the message we deliver to military police officers and the CAF at large. Our independent oversight alleviates the suspicion of military police protecting their own and helps to ensure the integrity of military policing overall. This year, 76% of the allegations reviewed by the Commission were found to be unsubstantiated.

Whether or not we substantiate a complaint, we may identify systemic improvements that could be made, or enhancements to individual skills or training. Correcting deficiencies not only makes the military police more effective and creates a more satisfying place to work, it also enhances public trust and confidence in policing.

On our outreach missions, we are occasionally asked why investigations can take so long. This question of timeliness continues to be of huge concern to the Commission. Complaints are taking too long to resolve and the delays are prolonging anxiety for both the subjects and complainants.

MP conduct complaints, which account for the vast majority of our cases, are not reviewed or investigated by our office unless a complainant is unhappy with a decision rendered by the internal MP Professional Standards review. This step is statutorily required to be completed within a year, except where there are ongoing related police investigations or judicial proceedings.

Once a review by the Commission is requested, it is our duty to respond with a fair and timely investigation of our own. At present, there is no time limit on the exercise of a complainant's right to a review – a defect in the legislative scheme which the Commission has previously raised and which we hope will soon be corrected.

We have recently streamlined our own processes to combine thoroughness with speed but we remain dependent on the Military Police and the Canadian Forces Provost Marshal (CFPM) to provide timely disclosure of evidence and to have a timely resolution of the initial complaint. Moreover, there are areas where the Commission's access to relevant information could be further enhanced. These points will be discussed later in the Conclusion to this report.

Collaboration with the Canadian Forces Provost Marshal (CFPM) and other members of the MP leadership is an essential component of our work. At the same time, we must always maintain our independence.

The Commission greatly values the positive relationships we have with all stakeholders in the military justice system. We work hard to foster an atmosphere of mutual respect and understanding by meeting and interacting regularly with Military Police at all levels, as well as military legal officers of the Office of the Judge Advocate General (JAG).

As another working year ends, I want to emphasize the MPCC's commitment to members of the CAF, the MP, and to all Canadians. Our job is timely, responsive and independent civilian oversight and we are constantly seeking more effective and efficient ways to meet that objective.

The mental and physical health of our employees continues to be an MPCC priority as it is in the Public Service as a whole, and during the past year we have circulated communiqués and held related workshops and armchair discussions. As you will read in this report, we also launched the 24/7 mobile e-learning platform 'LifeSpeak' and participated in the 'Not Myself Today' program.

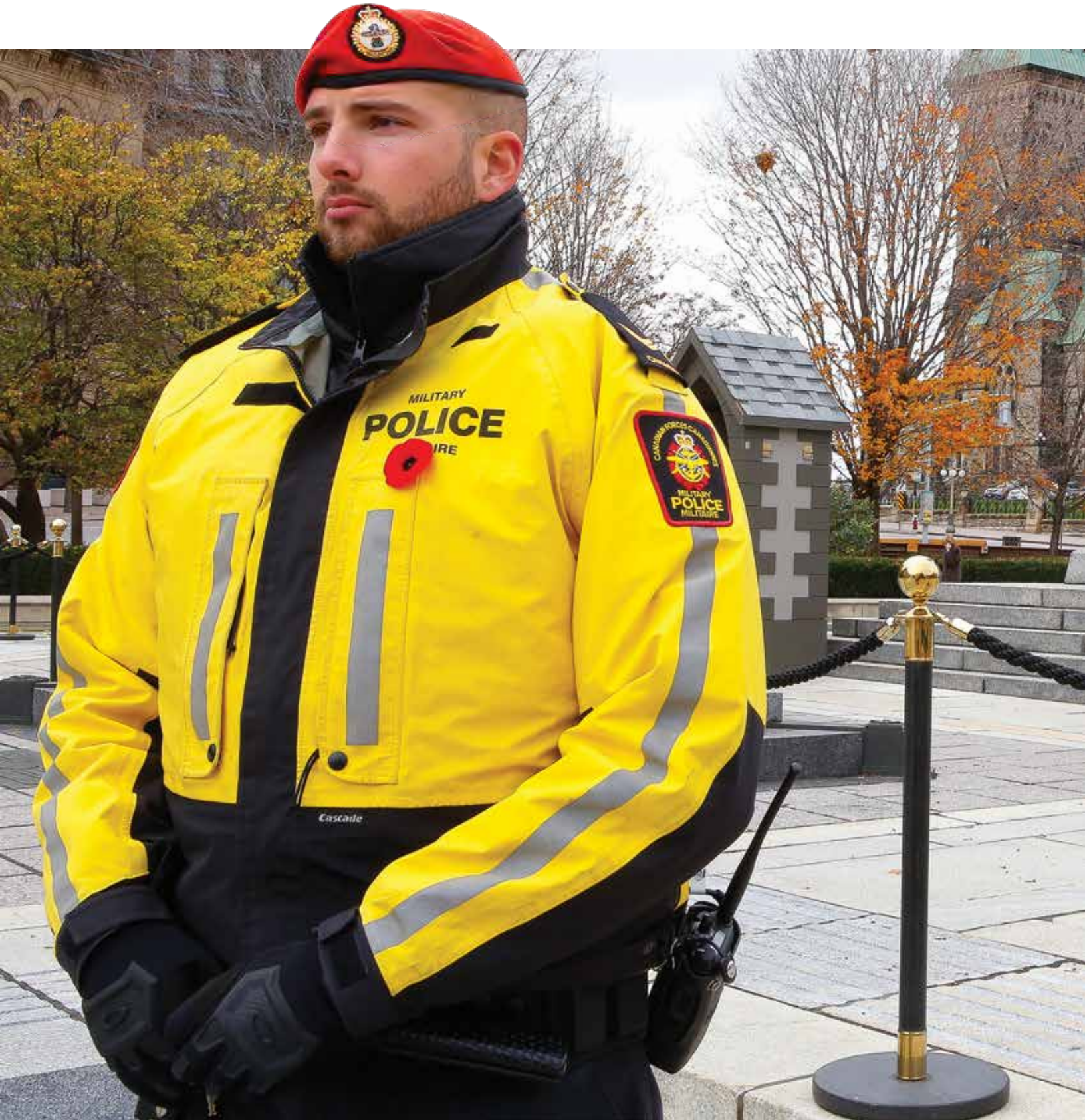
I want to thank Commission Members Michel Séguin and Troy DeSouza for their unflagging support and their carrying of a heavy workload as we await the appointment of two new commissioners.

None of our achievements would be possible without the dedication and professionalism of the entire MPCC staff. Being a member of the MPCC team, and working with them each day, is a constant source of pride and inspiration.

It has been a busy and productive year. We look forward to the challenges and opportunities that 2018 will bring.

Hilary C. McCormack, LL.B.
Fellow Litigation Counsel of America
Chairperson

PART 1 – **OVERVIEW**



I MILITARY POLICE COMPLAINTS COMMISSION OF CANADA

The Military Police Complaints Commission of Canada (MPCC) was established on December 1, 1999 by the Government of Canada to provide independent civilian oversight of the Canadian Forces Military Police. This was achieved through an amendment to the *National Defence Act* (NDA) creating a new Part IV, which sets out the mandate of the MPCC and how complaints are to be handled. As stated in Issue Paper No. 8, which accompanied the Bill that created the MPCC, its role is "…to provide for greater public accountability by the military police and the Chain of Command in relation to military police investigations."

II MANDATE AND MISSION

Mandate: The MPCC reviews and investigates complaints concerning Military Police conduct and investigates allegations of interference in Military Police investigations. The MPCC reports its findings and makes recommendations directly to the Military Police and National Defence leadership.

Mission: To promote and ensure the highest standards of conduct of Military Police in the performance of policing duties and to discourage interference in any Military Police investigation.

The MPCC fulfils its mandate and mission by exercising the following responsibilities:

- Monitoring investigations conducted by the Canadian Forces Provost Marshal (CFPM) of Military Police conduct complaints;
- Reviewing the disposition of conduct complaints about Military Police members at the request of the complainant;
- Investigating complaints of interference made by Military Police members; and
- Conducting public interest investigations and hearings.

III ORGANIZATIONAL BACKGROUND

The MPCC is one of 8 organizations in the Defence Portfolio. While it reports to Parliament through the Minister of National Defence (MND), the MPCC is both administratively and legally independent from the Department of National Defence (DND) and the Canadian Armed Forces (CAF). The MPCC is not subject to direction from the MND in respect of its operational mandate.

The MPCC is an independent federal government institution as defined under Schedule I.1 of the *Financial Administration Act* (FAA). As an independent oversight agency, the MPCC must operate at a distance and with a degree of autonomy from government, including the DND and the CAF. The MPCC Commission Members and employees are civilians and are independent of the DND and the CAF in fulfilling their responsibilities and accountabilities in accordance with governing legislation, regulations and policies.

Tribunal decisions and MPCC operations and administration must also be, and be seen to be, free from ministerial influence, other than seeking the signature of the MND as the Minister responsible for routine tabling of the MPCC's Departmental Results Reports, Departmental Reports, Annual Reports to Parliament, and other accountability documents such as Memoranda to Cabinet and Treasury Board submissions.

The Chairperson, as Chief Executive Officer (CEO) of the MPCC, is accountable for all MPCC activities and for the achievement of results. Based on the *Terms and Conditions of Employment for Full-Time Governor in Council Appointees*, the Chairperson is CEO, statutory deputy head or Deputy Head, as defined by the FAA and as designated through the Governor in Council.

As Deputy Head, the Chairperson is accountable to Parliament for fulfilling management responsibilities, including financial management. This includes

accountability for allocating resources to deliver MPCC programs and services in compliance with governing legislation, regulations and policies; exercising authority for human resources as delegated by the Public Service Commission; maintaining effective systems of internal controls; signing accounts in a manner that accurately reflects the financial position of the MPCC and exercising any and all other duties prescribed by legislation, regulations or policies relating to the administration of the MPCC.

IV THE CANADIAN FORCES PROVOST MARSHAL AND THE DEPUTY COMMANDER, CANADIAN FORCES MILITARY POLICE GROUP/ PROFESSIONAL STANDARDS

On April 1, 2011, the CFPM assumed full command of all MP members who are directly involved in policing. The CFPM also assigns MP resources to other supported commanders under operational command.

The Deputy Commander of the Canadian Forces Military Police Group (CF MP Gp) manages public complaints and internal MP misconduct investigations and ensures adherence to the *Military Police Professional Code of Conduct*.

The CFPM is the first to respond to complaints about MP conduct. The MPCC has the authority to monitor the actions taken by the CFPM as it responds to complaints, and to conduct its own reviews and investigations as required. The MPCC has the exclusive authority to deal with interference complaints.

The MPCC's recommendations, contained in its Interim and Final Reports, are not binding on the CAF and the DND. However, such recommendations do provide the Military Police with the opportunity to improve its operations and further enhance transparency and accountability.

Detailed information about the conduct and interference complaints processes are set out in sub-sections vi) and vii).

V THE MILITARY POLICE

The CAF MP Branch was formed in 1968 with the unification of the CAF. MP members were allocated to the Army, Navy and Air Force. The stated Mission of the CAF MP is to contribute to the effectiveness and readiness of the CAF and the DND through the provision of professional police, security and operational support services worldwide.

The MP Branch is comprised of 1,704 personnel: 322 reservists and 1,382 sworn, credentialed members (officers and non-commissioned members). Credentialed members are those members who are entitled to be in possession of an MP badge and identification card and thus are peace officers by virtue of article 22.02 of the *Queen's Regulations and Orders,* section 156 of the NDA and section 2 of the *Criminal Code of Canada*.

The MP exercise jurisdiction within the CAF over both DND employees and civilians on DND property. The MP form an integral part of the military justice system in much the same way as civilian police act within the civilian criminal justice system. MP routinely train and work with their civilian counterparts in the provision of police and security services to the CAF and the DND.

Members of the Military Police are granted certain powers under the NDA in order to fulfill their policing duties. For example, Military Police members have the power to arrest, detain and search. The *Criminal Code* recognizes members of the MP as peace officers. Therefore, they can make arrests and lay charges in civilian criminal courts. Additionally, MP members posted to the Canadian Forces National Investigation Service (CFNIS) can also lay charges under the NDA's *Code of Service Discipline*.

VI CONDUCT COMPLAINTS PROCESS

Conduct Complaint Filed

Anyone may make a conduct complaint regarding the MP in the performance of their policing duties or functions, including individuals not directly affected by the subject matter of the complaint. Such complaints are initially dealt with by the CFPM. Informal resolution is encouraged.

Complaint Investigated by the CFPM

As the CFPM investigates a complaint, the MPCC monitors the process. At the conclusion of the investigation, the CFPM provides a copy of its final disposition of the complaint to the MPCC. The MPCC may, at any time during the CFPM investigation, assume responsibility for the investigation or call a public hearing if it is deemed to be in the public interest (see section viii below).

Request for Review

Complainants may request the MPCC review the complaint if they are not satisfied with the results of the CFPM's investigation or disposition of the complaint.

MPCC Reviews Complaint

At a minimum, this process involves a review of documentation related to the CFPM's investigation. Often, it also includes interviews with the complainant, the subject(s) of the complaint, and witnesses, as well as consideration of relevant legislation, and military and civilian police policies, procedures and best practices.

MPCC Releases Interim Report

At the completion of the review, the Chairperson sends the Interim Report to the MND, the Chief of the Defence Staff (CDS) and the CFPM, setting out the MPCC's findings and recommendations regarding the complaint.

Notice of Action

The Notice of Action is the official response by the CAF to the Interim Report. It outlines what action, if any, has been or will be taken in response to the MPCC's recommendations.

MPCC Releases Final Report

After considering the Notice of Action, the MPCC issues a Final Report of findings and recommendations. The Final Report is provided to the MND, the Deputy Minister (DM), the CDS, the Judge Advocate General (JAG), the CFPM, the complainant(s) and the subject(s) of the complaint, as well as anyone who has satisfied the MPCC that they have a substantial and direct interest in the case.

How the MPCC Carries Out Its Reviews and Investigations of Conduct Complaints

In response to a request from a complainant for a review, the MPCC follows the steps described below:

- The MPCC conducts a preliminary review of the complaint and the related Military Police (MP) files and records, which the Canadian Forces Provost Marshal (CFPM) is obligated to provide, in order to determine how to respond to the request for review; including, whether an investigation is required, the scope of the investigation warranted and how to approach the investigation. The Chairperson may also delegate a Commission Member to handle the file.
- A lead investigator is assigned and, with MPCC legal counsel, reviews the evidence and other materials gathered during the CFPM's investigation of the complaint. This could be hundreds of pages of documents, emails, handwritten notes and reports, and many hours of witness audio and video recordings.

- The lead investigator, in consultation with the assigned legal counsel, prepares an Investigative Assessment (IA) for consideration and approval by the Chairperson or delegated Commission Member. The IA is a report summarizing all the available evidence, and identifying any further lines of inquiry which may be necessary in order to conclude the review of the complaint: further documents or records to be obtained; research on issues of law, MP policy or policing best practices; or witness interviews. Where further investigation is deemed appropriate, the IA will also include timeline and budget estimates which must also be approved.
- If the IA, as approved by the Chairperson or delegated Commission Member, indicates that there is sufficient information to decide the complaint, either with or without further records and/or research, the Chairperson or delegated Commission Member, with the assistance of legal counsel, will proceed to prepare the Interim Report, containing the MPCC's findings and recommendations regarding the complaint.
- If the Chairperson or delegated Commission Member determines that witness interviews are required in order to decide the complaint, the assigned investigator(s) will proceed to conduct the interviews. The additional information obtained from these interviews will be summarized and added to the IA to produce an Investigation Report (IR). Once the IR is completed to the satisfaction of the Chairperson or delegated Commission Member, the MPCC will then proceed to the preparation of the Interim Report.
- As described in the previous section, the Interim Report is provided to the Minister of National Defence (MND), the Chief of the Defence Staff (CDS) and the CFPM for an official response in the form of a Notice of Action. The Notice of Action will be considered in the MPCC's Final Report, which will be sent to the parties to the complaint, the relevant departmental officials, as well as anyone who has satisfied the MPCC that they have a substantial and direct interest in the case.

VII INTERFERENCE COMPLAINTS PROCESS

Interference Complaint Filed

Any member of the MP who conducts or supervises investigations and believes a member of the CAF or a senior official of the DND has interfered with or attempted to influence an MP investigation may file a complaint with the MPCC.

MPCC Investigates

The MPCC has sole jurisdiction to investigate interference complaints. A preliminary review is conducted to determine whether an investigation should be commenced, the scope of the investigation and how to approach the investigation. Once this process is complete, the MPCC begins its investigation.

MPCC Releases Interim Report

The Interim Report includes a summary of the MPCC's investigation, as well as its findings and recommendations. This report is provided to the MND, the CDS, if the alleged interference was carried out by a member of the military, or to the Deputy Minister (DM) of National Defence, if the subject of the complaint is a senior official of the DND; and to the JAG and the CFPM.

Notice of Action

The Notice of Action is the official response to the Interim Report. It indicates the actions, if any, which have been or will be taken to implement the MPCC's recommendations.

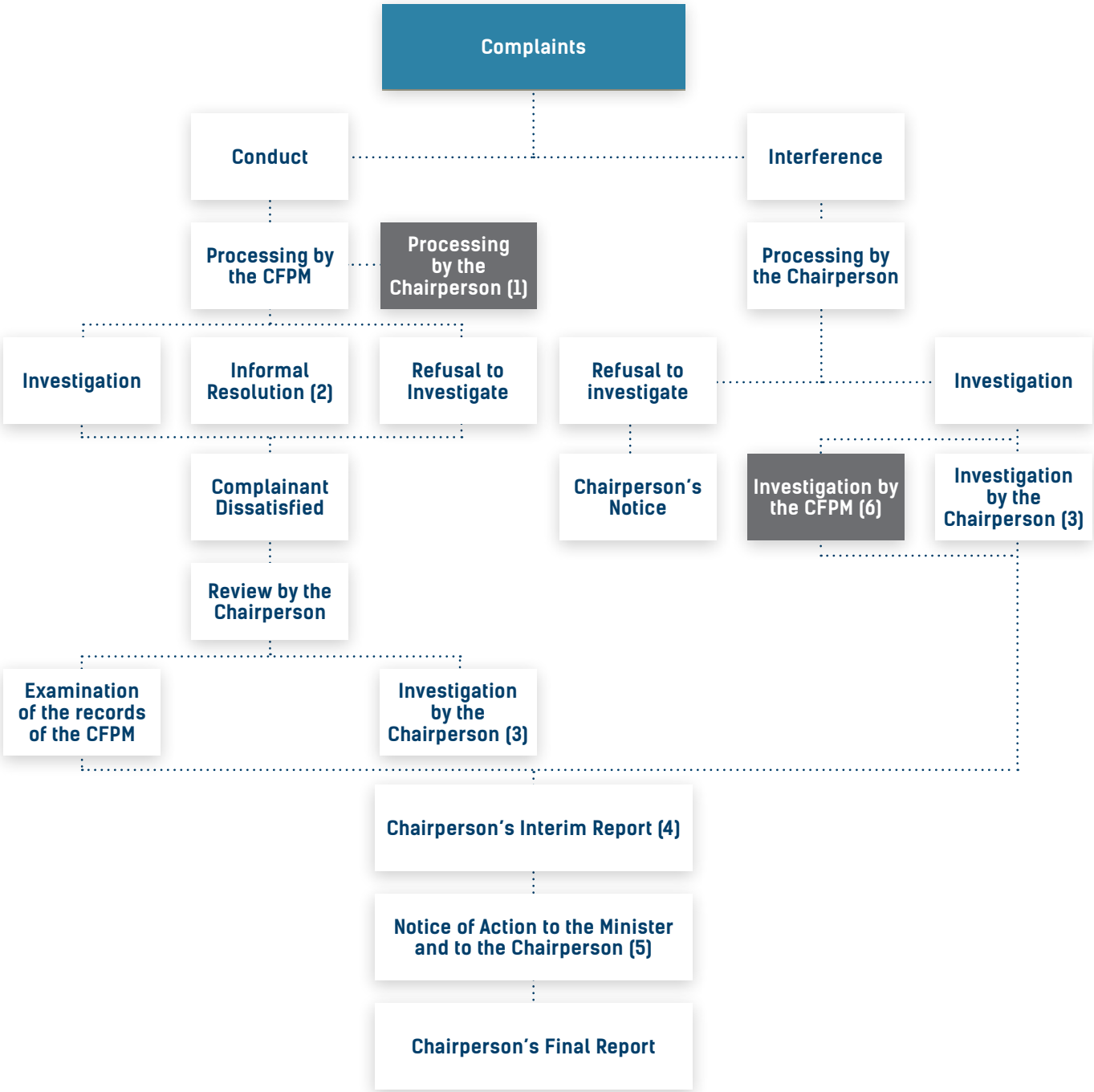
MPCC Releases Final Report

Taking into account the response set out in the Notice of Action, the MPCC prepares a Final Report of its findings and recommendations in the case. The Final Report is provided to the MND, the DM, the CDS, the JAG, the CFPM, the complainant(s), and the subject(s) of the complaint, as well as anyone who has satisfied the MPCC that they have a substantial and direct interest in the case.

VIII PUBLIC INTEREST INVESTIGATIONS AND HEARINGS

At any time, if it is in the public interest, the Chairperson may initiate an investigation into a complaint about police conduct or interference in a police investigation. If warranted, the Chairperson may decide to hold a public interest hearing. In exercising this statutory discretion, the Chairperson considers a number of factors including, among others:

- Does the complaint involve allegations of serious misconduct?
- Do the issues have the potential to affect confidence in the MP or the complaints process?
- Does the complaint involve or raise questions about the integrity of senior military or DND officials, including senior MP members?
- Are the issues involved likely to have a significant impact on MP practices and procedures?
- Are the issues of broader public concern or importance?



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

2 Does not apply to a conduct complaint of the type specified in the regulation.

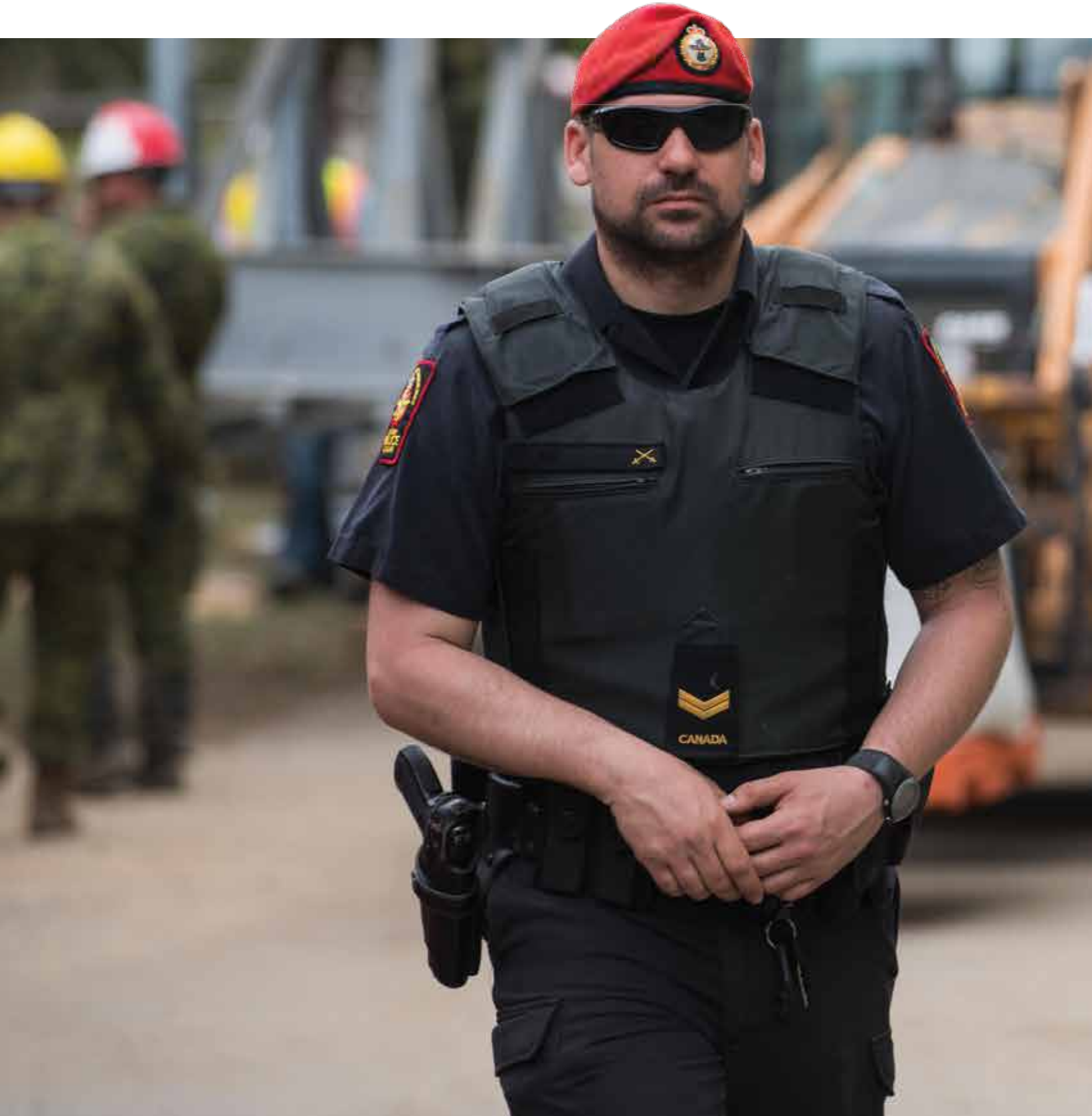
3 In the public interest, the Chairperson may cause the Complaints Commission to conduct an investigation and, if warranted, hold a hearing (section 250.38 of the NDA).

4 In the case of a hearing, the interim report is prepared by the Complaints 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 CFPM, the Chief of the Defence Staff, the Deputy Minister or the Minister (sections 250.49 and 250.5 of the NDA).

6 Exceptionally, the Chairperson may ask the CFPM to investigate.

PART 2 –
THE YEAR IN REVIEW



INTERNAL REVIEW ON TIMELINESS

A key goal for the MPCC is to conduct investigations and produce reports of high quality in a timely manner. Timely treatment of complaints helps to ensure that their resolutions are more meaningful to all concerned. The complainant feels that the concerns he or she has raised are being treated with a priority that reflects their importance. Timely action imparts the same message to complaint subjects, and also reduces the time that they are left in suspense as to the results of complaints made against them. Finally, timely resolution helps to enhance the value of any recommendations made by the MPCC and the lessons that can be drawn from the complaint, however it may be resolved.

Therefore, in 2016, the MPCC undertook a comprehensive internal review of its complaints resolution process. This led to recommendations to improve timeliness in both the treatment and investigation of complaints as well as to refine the planning and conduct of the investigations, with particular focus on improving timeliness and ensuring that the resources devoted to a file match its complexity. The MPCC then implemented changes to streamline its procedures with a view to improving the overall timeliness of the investigation and resolution process. These processes are being monitored through careful tracking of each step in the complaints resolution process to better understand where the delays are taking place. Throughout the year, the MPCC continued to review its investigation guidelines and processes on a regular basis in order to achieve continued improvement in the timeliness of our complaint resolution and to enhance the efficiency and fairness of the complaints process. The MPCC is committed to continuous monitoring, fine-tuning and improvement of its processes, and is always open to feedback from its stakeholders.

> "Once a review by the Commission is requested, it is our duty to respond with a fair and timely investigation of our own."
>
> – MPCC Chairperson

MPCC received a warm welcome from Canadian Forces Maritime Experimental and Test Ranges (CFMETR), Nanoose Bay.

MONITORING AND INVESTIGATIONS

The following table highlights the Military Police Complaints Commission of Canada (MPCC) statistics on a four-year comparative basis from 2014 to 2017. The table cannot fully report the increase in the complexity and scope of the types of complaints the MPCC handles, nor accurately predict when complex complaints will be referred.

STATISTICS FROM 2014 – 2017	2014	2015	2016	2017
Conduct Complaints Carried Over	26	31	41	36
New Conduct Complaints (A)	54	57	40	63
Interference Complaints Carried Over	3	7	3	0
New Interference Complaints	2	1	0	2
Reviews Carried Over	11	17	23	12
New Reviews	15	8	2	14
Section 250.38 of the NDA Public Interest Investigations/Hearings Carried Over	1	1	1	1
New Section 250.38 of the NDA Public Interest Investigations/Hearings	0	1	0	0
Judicial Proceedings Carried Over (e.g. Judicial Review)	1	0	0	0
New Judicial Proceedings (e.g. Judicial Review)	0	1	1	1
Other External Proceedings Carried Over	0	1	0	0
New Other External Proceedings	1	0	1	2
General Files Opened (Request for information, summary advice and other)	56	69	60	44
New Files Opened	**128**	**137**	**104**	**125**
Total Files Dealt With During the Year	**170**	**194**	**172**	**174**
Public Interest Decisions/Rulings Issued	0	1	0	1
Time Extension Decisions Issued	5	11	9	7
Interim Reports Issued	12	6	12	9
Final Reports Issued (B)	9	13	14	9
Recommendations on Final Reports	12	104[1]	19	11
Percentage of Recommendations Accepted	100%	36%[2]	95%	91%
Reports/Decisions/Rulings Issued	**26**	**31**	**35**	**26**

(A) Includes No Jurisdiction complaints/Ext. of Time Denied.
(B) Includes Concluding Reports and No Jurisdiction letters.

1 96 recommendations in one file.

2 An unusually large proportion of the recommendations made by the MPCC during the reporting period – 96/112, or 86%, arises from one large case – a complex Public Interest Hearing (the Fynes PIH). In this case, a large number of the CFPM responses to the MPCC recommendations (70%) were framed in non-committal language, rather than in terms of a straightforward "accepted" or "not accepted". In the circumstances of this case, at the time, the MPCC deemed these non-committal responses as not accepting of the associated recommendation. However, in 2017, the CFPM provided an update to the MPCC on the steps taken to implement the recommendations in the Fynes PIH report. The Commission is pleased to report that the CFPM has now implemented a substantial majority of the Commission's recommendations for changes to policies and procedures. For all the other cases completed during the reporting period, 100% of MPCC recommendations were accepted.

PUBLIC INTEREST INVESTIGATION INTO ANONYMOUS COMPLAINT (TREATMENT OF DETAINEES)

On November 4, 2015, Chairperson Hilary McCormack decided that the MPCC would conduct a Public Interest Investigation (PII) into an anonymous complaint relating to the alleged mistreatment of detainees in Afghanistan by the Military Police. This is the MPCC's 14th Public Interest Investigation, and the first to be launched based on allegations made in an anonymous complaint.

The complaint alleges that in December 2010 and January 2011 the Commanding Officer of the Military Police Company stationed at Kandahar Airfield, Afghanistan, conducted exercises at the Detainee Transfer Facility in order to "terrorize" the detainees. According to the complaint, on at least one occasion, MP members entered the detainees' cells in the middle of the night, carrying weapons and other police equipment, and pushed detainees against the wall and on the floor and applied arm locks. The complaint alleges the tension was so high after the previous two months that several detainees defecated and urinated on the spot.

The complaint alleges that the Canadian Forces National Investigation Service (CFNIS) conducted an investigation in order to bring serious charges against the MP Commanding Officer. Although the CFNIS has the authority to lay charges, it is alleged that in this case, they did not do so. Instead, charges were allegedly provided to the CAF Task Force Commander who, according to the complainant, ignored them. The complainant further alleges that a lieutenant-colonel in the MP Chain of Command was subsequently tasked to conduct an investigation into the events. S/he complains that despite these various investigations, no charges or court martial resulted.

November 30, 2017, CFPM-MPCC Bi-Annual meeting – from left to right – David Goetz (Senior Counsel), Julianne Dunbar (General Counsel), Hilary McCormack (Chairperson), Brigadier-General Robert Delaney (CFPM), Colonel Simon Trudeau (Deputy Commander MP Group) and Lieutenant Colonel Jean-Michel Cambron (JAG Legal counsel to CFPM)

In her decision to conduct a PII into this complaint, the MPCC Chairperson noted that the complaint letter reveals a perception that the matter may have been deliberately ignored or even "covered up", and that the CFNIS members may have ceded their authority to lay charges. She also found that the comments of some of the individuals identified as "reference persons" in the letter further reveal a perception on the part of at least some of the members deployed to Kandahar Airfield at the time of the CFNIS investigation may have been improperly directed by "Ottawa" or influenced by concerns about the reputation of the MP or CAF in light of the public attention that issues involving the treatment of detainees can receive.

In making her decision to conduct a PII into this complaint, the Chairperson considered the nature and seriousness of the allegations, the need for an independent, public and transparent investigation process, and the measures taken by the complainant to protect his or her identity.

In January 2016, the Chairperson co-delegated this file to MPCC Member Michel Séguin. As a result, the Chairperson and Member are jointly conducting this PII and will prepare the Interim and Final Reports relating to this complaint. During the year 2016, the MPCC also assigned two investigators to assist with the conduct of this PII.

The MPCC began to receive disclosure of relevant materials from the Canadian Forces Provost Marshal (CFPM) in June 2016. As the MPCC later outlined in its 2017 decision on the scope of the PII, the receipt of the disclosure that had been requested from the CFPM in November 2015 was delayed due to a decision by the CFNIS to conduct an assessment of its previous 2011 investigation and to re-open the case. The MPCC negotiated a protocol with the Military Police Group in order to be able to receive disclosure while the new investigation was being conducted. The protocol was signed in early June 2016. A few days later, the CFNIS concluded its new investigation and the MPCC was advised that a decision had been made not to lay charges or send the file to military prosecutors for pre-charge review.

In addition to the initial disclosure received in June 2016, additional disclosure was received in the summer and fall of 2016. The materials, totaling over 3000 pages, were reviewed by the MPCC in order to inform its decision regarding its jurisdiction over each aspect of the complaint and the identification of the subjects of the complaint.

On February 27, 2017, the MPCC issued a decision regarding the scope of the PII and identified the subjects of the complaint. Based on the applicable legislation and *Regulations*, the MPCC found that it did not have jurisdiction to investigate the aspects of the complaint relating to the conduct of the Military Police members conducting the exercises at the Kandahar Detainee Transfer Facility, as the handling of detainees in a theatre of operations had been previously found by the Federal Court of Canada to relate to military operations that are excluded from the matters that can be the subject of complaints before the MPCC. Similarly, the MPCC found that the conduct of the investigation by the lieutenant-colonel in the MP Chain of Command was also not within its jurisdiction because the investigation in question was administrative and functions relating to administration are expressly excluded from the matters that can be the subject of complaints before the MPCC.

However, the conduct of the 2011 CFNIS investigation and the CFNIS' decision not to lay charges following that investigation were found to be within the MPCC's jurisdiction to investigate. As a result, it was decided that the PII would focus on the conduct of the CFNIS members involved in the 2011 investigation and decision not to lay charges.

The MPCC identified six subjects of the complaint, including four investigators from the in-theatre CFNIS Detachment who were involved in leading and assisting with the conduct of the 2011 investigation, the Officer Commanding for the in-theatre CFNIS Detachment, and the Deputy Commanding Officer at CFNIS Headquarters (HQ) at the relevant time.

The MPCC noted in its decision that being named a subject of the complaint should not be interpreted as an indication that the MPCC has concluded there were deficiencies in the conduct of the individuals named. On the contrary, the MPCC stated it is only at the conclusion of the PII that it will be able to determine whether there were deficiencies in the CFNIS investigation and decision not to lay charges and, if so, whether the subjects of the complaint were responsible for any deficiencies identified. The MPCC therefore emphasized that the subjects of the complaint had not been identified because the MPCC believed they had involvement in inappropriate conduct or that there were deficiencies in their work, but solely on the basis of the fact that they were involved in the conduct that had been complained about.

Following the issuing of this decision, the MPCC investigators continued to review and analyze the materials disclosed to the MPCC about the conduct of the CFNIS investigation. In May 2017, the Commission Panel approved the investigation plan prepared by the investigators. Additional disclosure was requested, and the investigators began to conduct witness interviews in July 2017. The conduct of the witness interviews has continued throughout the summer and fall of 2017, with the MPCC investigators traveling throughout the country to meet the witnesses. The MPCC has also engaged in ongoing discussions with the office of the CFPM regarding access to records relevant to the PII, and steps are being taken to identify and locate the relevant records.

IV COMPLAINT REGARDING RESTRICTIONS ON MP INTERVENTIONS IN MENTAL HEALTH AND OTHER EMERGENCY SITUATIONS

In late June of 2017, the MPCC received a complaint from an anonymous MP about new restrictions on MPs' exercise of their peace officer authorities.

The new policy directed that, when presented with someone on military property who is experiencing a mental health crisis and who is possibly suicidal, MPs should retreat to a safe distance and contact local police to deal with the situation. Civilian police have the authority under provincial mental health legislation to apprehend such an individual and take them to hospital for assessment and treatment. The complainant contended that such an approach was at odds with MPs' common law duty as peace officers to protect life. The difficulty, as pointed out in the new MP policy direction, is that MPs generally only have peace officer and police officer status at the federal level, while mental health is governed by provincial legislation.

The MP policy direction did offer that, if necessary, MPs in such situations could use their arrest powers as follows: CAF members could be arrested for the service offence of "malingering"; civilians could be arrested for "disturbing the peace" under the *Criminal Code*. However, the complainant objected that these were unsatisfactory due to the fact that MPs need to properly and subjectively have grounds to believe someone is committing or has committed an offence before they arrest anyone, and also, such an arrest would not get such persons the medical help that they required.

The complainant also objected to the direction that MPs were no longer to intervene in incidents occurring off-base. A new CF MP Group Order, replacing former provisions of the *Military Police Policies and Technical Procedures* (MPPTP), provides that there is no longer a "public expectation" exception whereby MPs in uniform

could intervene in certain emergency situations off-base even though they lack legal peace officer jurisdiction.

The anonymous complainant specifically requested the MPCC to launch a "public interest" investigation into the case. Taking the case "in the public interest" under section 250.38 of the *National Defence Act* (NDA) would enable the MPCC to launch an immediate investigation (instead of referring the case for initial treatment by the CFPM, in the case of an MP conduct complaint) and, if warranted, to hold public hearings on the matter. First, however, it was necessary for the MPCC to determine if the complaint fell within the MPCC's jurisdiction as a valid conduct and/or interference complaint.

After due consideration and research, the MPCC concluded that this complaint, while it raised important issues for military policing in Canada, did not constitute a valid MP conduct or interference complaint.

As far as the MPCC's conduct complaint jurisdiction is concerned, NDA Part IV limits the notion of a conduct complaint to the performance by MPs of "policing duties or functions" as defined in regulations made under subsection 250.18(1) of the NDA. While the MP policy direction at issue addressed issues related to the performance of MPs' policing duties, the act of formulating policy direction itself was concluded to be administrative, rather than operational, in nature, and therefore expressly excluded from the scope of matters that can be the subject of a conduct complaint pursuant to subsection 2(2) of the *Complaints About the Conduct of Members of the Military Police Regulations*.

With respect to the MPCC's interference mandate, it was determined that an interference complaint under section 250.19 of the NDA must relate to interference or attempted interference with an actual or prospective investigation into a particular set of events, rather than simply to the conduct of future investigations generally in the abstract.

Given its conclusions as to its jurisdiction in this matter, the MPCC was unable to consider the exercise of its authority to cause a public interest investigation or hearing. The MPCC did, however, consider that the complaint raised a serious and important issue with respect to military policing in Canada and forwarded the complaint to the CFPM for his information and for any action he considered appropriate.

As noted above, this complaint raises important issues relative to the conduct of military policing in Canada. Indeed, the MPCC has been apprised of similar concerns with the current policy direction on the exercise of MP jurisdiction from rank-and-file MP members during its outreach visits at bases in different parts of the country.

While the MPCC lacks the legal authority to investigate a complaint about MP policies and orders in the abstract, the MPCC may have the opportunity to address such matters in the context of future complaints arising from specific situations, or in a future MPCC special report. Therefore, the MPCC will likely have more to say on this issue.

V AN UPDATE ON THE IMPLEMENTATION OF THE FYNES PUBLIC INTEREST HEARING RECOMMENDATIONS

In 2015, the MPCC issued its Final Report on the Fynes Public Interest Hearing (PIH). This hearing, which related to events surrounding the death of Corporal (Cpl) Stuart Langridge, was the MPCC's lengthiest hearing to date.

Cpl Langridge committed suicide at Canadian Forces Base Edmonton on March 15, 2008. His parents, Sheila and Shaun Fynes, filed a formal complaint with the MPCC about the three investigations conducted by the CFNIS following Cpl Langridge's death. The Fynes alleged that the investigations were biased and inadequate. Other allegations cited incompetence, and a lack of independence and professionalism. The Fynes

also complained about the CFNIS' failure to disclose their son's suicide note to them.

The MPCC found 15 of the allegations to be unsubstantiated, including all the allegations of bias and lack of independence. Nine allegations were substantiated in part. The other 15 allegations were found to be substantiated, including the allegation that the CFNIS failed to tell the Fynes about their son's suicide note.

The MPCC made 46 recommendations to improve the quality of military policing in Canada. The recommendations related to a number of areas, including the conduct of Sudden Death investigations and the level of field experience required to conduct such investigations. Numerous changes to MP policies and procedures were recommended in order to improve the conduct and supervision of investigations, to ensure that suicide notes were disclosed in a timely manner and to ensure that families received meaningful information and briefings about the investigations conducted.

When the Military Police provided its Notice of Action (NOA) responding to the recommendations, many of the responses did not state whether the recommendations would be implemented or not, but rather indicated that the recommendations would be considered in the future. As a result of the large number of such non-committal responses in the NOA, the Commission concluded that the majority of the recommendations had been rejected either directly or through a failure to respond in the NOA. At the time, the Commission commented in its Final Report that the failure to respond to a large number of the recommendations had a negative impact on the ability of the oversight regime to provide the required level of accountability for the Military Police.

Since then, the CFPM has provided additional information to the Commission about the steps taken to implement the recommendations made in the Fynes PIH Report. The Commission is pleased to report that the Military Police has now implemented a substantial majority of the Commission's recommendations for changes to policies and procedures. Further, almost all of the recommendations that had received a non-committal response in the NOA have now been implemented in new or amended CF MP Group Orders. The Commission was able to review the revised policies and to confirm that significant work was undertaken by the Military Police to implement the recommended changes.

The Commission considers this to be a positive development both for Military Police accountability and for the continued improvement of Military Police policies and procedures.

The full text of the MPCC's Final Report is available on the MPCC's website.

VI OUTREACH

The MPCC's outreach program is key to building relationships with the Military Police, the community they serve, the Canadian Armed Forces at large as well as other key stakeholders. The value of meeting people face-to-face cannot be overstated. The MPCC greatly appreciates the efforts of the many individuals who organized, supported and participated in its outreach activities at the bases and the Canadian Forces Military Police Academy as well as at other events.

Canadian Armed Forces Locations Across Canada

These annual visits to military locations across Canada increase awareness of the MPCC's mandate and activities, build relationships with stakeholders and respond to questions and concerns about the complaints process. The primary audiences are:

- members of the MP who may be subjects, complainants or witnesses in conduct or interference complaints;

Chief Warrant Officer Jean-Claude Parent, Hilary McCormack (Chairperson), Wing Commander Colonel Mike Atkins

Outreach visit– Lieutenant Evan Foster, Hilary McCormack (Chairperson) and Troy DeSouza (Commission Member)

- the military Chain of Command, which relies on the services of members of the MP to maintain military discipline, but cannot interfere with police investigations; and
- those who may interact with the MP because they live, work, or visit a CAF base. The MPCC's connection to this group is often made through the executive directors and staff of the Military Family Resource Centre (MFRC) at each base.

The MPCC's goal is to reach as many members of the military family as is possible, while respecting the operational realities of CAF bases and wings across the country.

In 2017, MPCC staff visited Esquimalt, BC; Nanoose Bay, BC; Comox, BC; Chilliwack, BC; Trenton, ON; Valcartier, QC; Bagotville, QC.

The feedback provided by participants who attended the 2017 information sessions remained positive and is used to continuously improve the content and style of presentations.

Military Police Academy

In addition to visits to CAF bases throughout Canada, the MPCC continued to have a significant presence at the Canadian Forces Military Police Academy (CFMPA) located in Borden, ON. Staff and members provided numerous presentations as part of courses for MPs at the CFMPA. Throughout the year, the MPCC and Academy staff have continued to collaborate to ensure MPCC presentations are tailored to specific courses. The MPCC looks forward to continuing this interaction with the MP Academy.

Commandant, CF MP Training Group

On April 5, 2017, the then Commandant of the CF MP Training Group Lieutenant-Colonel (LCol) Adam Battista, and Chief Warrant Officer (CWO) Crystal Krammer provided an overview to MPCC staff regarding the structure and curriculum at the Canadian Forces Military Police Academy. The information gathered during the session will be used to better target MPCC Outreach to specific courses at the Academy.

CF MP Training Group – Chief Warrant Officer Crystal Krammer and Lieutenant-Colonel Adam Battista (then Commandant) with Hilary McCormack (Chairperson)

CFPM, Brigadier-General Robert Delaney presents a MP challenge coin to Hilary McCormack (Chairperson)

Judge Advocate General (JAG) / Defence Counsel Services (DCS)

On February 28, 2017, the MPCC General Counsel and Senior Counsel were among the speakers at the Canada School of Public Service training day for JAG lawyers who are part of the Defence Counsel Services. They discussed issues related to the mandate of the MPCC and its approach to investigations.

VII COLLABORATION

Throughout the year, the MPCC continued to work towards resolution of a number of complex and challenging matters with the National Defence leadership, the Canadian Forces Provost Marshal (CFPM), the military Chain of Command and the Military Police community.

Canadian Forces Provost Marshal (CFPM)

The Chairperson and the CFPM instituted a bi-annual meeting to discuss their core mandates, objectives and issues of mutual interest. On May 16, 2017 and November 30, 2017, the MPCC Chairperson, General Counsel and Senior Counsel met with the CFPM, the Deputy Commander MP Group/Professional Standards and the CFPM Legal Advisor. These meetings have been fruitful in ensuring strong lines of communication and a collaborative relationship.

MPCC-CFPM Working Group

Established in 2015, the MPCC-CFPM Working Group is an MPCC initiative to establish an ongoing forum to discuss and clarify issues regarding disclosure of Military Police information to the MPCC – specifically regarding what categories of information may properly be exempt from disclosure to the MPCC and how those categories are defined. In 2017, the Working Group remained ready as a forum to deal with ongoing disclosure issues requiring discussion.

VIII PROFESSIONAL ASSOCIATIONS

Canadian Association for Civilian Oversight of Law Enforcement (CACOLE)

CACOLE is a national, non-profit organization of individuals and agencies dedicated to advancing the concept, principles and application of civilian oversight of law enforcement organizations across Canada and abroad. CACOLE is recognized worldwide for its oversight leadership. The MPCC's Chairperson is a member of the CACOLE Board of Directors.

CACOLE's annual meeting was held this year in St. John's, NL May 28 – 31 and was attended by MPCC staff. This year's theme was "Civilian Oversight: Perspectives from the Inside Out". Panel discussions focused on a wide range of topics, including Perspectives in Crisis Management, Diversity, Ethics, Training in Civilian Oversight Agencies, Transparency and Privacy.

International Commission of Jurists Canada (ICJ Canada)

The ICJ Canada is an independent, non-governmental, non-partisan organization, and a registered Canadian charity. Its membership is composed exclusively of members of the legal profession: judges, lawyers, law professors, and law students from across Canada. The ICJ's mission promotes the cause of international human rights, the independence of the judiciary and the rule of law worldwide. The MPCC's General Counsel is a member of the ICJ Canada's Board of Directors in the role of Secretary-Treasurer. In addition, the Chairperson and several MPCC lawyers are members of the organization.

Canadian Bar Association (CBA)

The CBA is a professional, voluntary organization which represents some 36,000 lawyers, judges, notaries, law teachers, and law students from across Canada. Approximately two-thirds of all practicing lawyers in Canada belong to the CBA. Through the work of its sections, committees and task forces at both the national and branch levels, the CBA is seen as an important and objective voice on issues of significance to both the legal profession and the public. The MPCC's lawyers are members of various sections of the CBA such as Military, Administrative, Privacy and Criminal Law Sections. One MPCC lawyer serves as an executive member of the Ontario Bar Association's Criminal Justice Section.

Council of Canadian Administrative Tribunals (CCAT)

The CCAT is a national organization that supports the work of administrative tribunals and supports excellence in administrative justice. One of the MPCC lawyers is a member of the Board of Directors. In addition, another MPCC lawyer and the articling student participated this year in the simulated hearings held on June 15, 2017 and on December 7, 2017.

IX IMPACT ON MILITARY POLICING – CASE SUMMARIES

The following section provides summaries of selected conduct cases completed by the MPCC in 2017.

Conduct Case Summary MPCC 2014-051 / Allegation that MP Improperly Laid Charges

This complaint arose from interactions between members of the Military Police (MP) and the complainant, a Canadian Armed Forces member, who was charged with abandoning a child and failing to provide the necessaries of life after he left his 19-month old daughter in his car for approximately 3 hours.

On the morning of the incident, the complainant was asked by his wife to drop off his daughter at the daycare. At the time, the complainant had been under significant stress both at work and at home. His wife suffered from a disability and child care arrangements were difficult. The previous night, his wife had made

a decision to return to another part of the country with their daughter during the last year of the complainant's posting. The complainant had not had much sleep, and had woken up early to care for his daughter. He was discussing the situation with his wife when he noticed he was late for work and she asked him to drive their daughter to daycare. The car seat had recently been moved to a different location, immediately behind the driver's seat, and the complainant did not usually drive his daughter to daycare. He placed her in the car seat, saw a message about a work meeting on his blackberry, and drove away. By the time he arrived at work, he had forgotten his daughter was in the car. She was asleep and made no sounds. When the complainant's wife attended the daycare shortly before lunch time, she learned that her daughter had not been dropped off. The complainant's assistant was contacted, and his daughter was located in the car, sleeping. The complainant was asked to step out of a meeting and told about the situation. He arrived at his car as his assistant was taking the child from the car seat and his wife was arriving in the parking lot. The temperature was cool, but the child appeared unaffected by her stay in the car.

The complainant's wife was upset and decided to walk home with her daughter. However, when she realised she could not walk this distance, she went into the MP Detachment to ask for a ride. Upon learning about what had happened, the MP initiated an investigation. The complainant's wife was interviewed, and the MP had a conversation with the complainant's assistant and obtained temperature readings for the day. The complainant was also contacted and agreed to attend the Detachment the next day for an interview. When he attended, upon being informed of his rights, he decided to contact a lawyer, and then indicated he would not participate in an interview. The following day, the MP conducted an interview with the complainant's wife and obtained a written statement. The MP subsequently contacted a staff member from the daycare, who refused to provide a statement, as well as the complainant's assistant, who also refused. The MP then swore an Information charging the complainant, and attended at his residence to serve a summons on the complainant. In September 2014, at the second court appearance, the complainant's lawyer had a discussion with the Crown prosecutor, who made a decision to withdraw the charges.

In November 2014, the complainant transmitted a complaint to the Military Police Complaints Commission (MPCC). The complaint alleges that the MP members involved improperly laid charges against the complainant, and failed to apply the appropriate legal criteria. It also alleges that the MP members failed to interview witnesses who could have spoken on the complainant's behalf, that they failed to consult with the Crown or seek authorization through their Chain of Command (CoC) prior to laying the charges, that the MP CoC did not provide adequate supervision for the investigation, that the MP members summoned the complainant in an inappropriate public venue, on his front porch while his neighbours were having a party outdoors, and that the MP members involved lacked the competence and experience to investigate this matter. In the complaint, the complainant provided an explanation of the events and the stress he was under at the time, and outlined how the charges affected him and his family.

The complaint was directed to the Canadian Forces Provost Marshal (CFPM) to be dealt with in the first instance as per the *National Defence Act* (NDA). The Canadian Forces Military Police Group's (CF MP Gp) Professional Standards (PS) section conducted a preliminary review of the complaint. Following this review, the Deputy Commander for the CF MP Gp determined that no breaches of MP policies, orders or code of conduct had occurred as the MP had acted lawfully within the scope of their duties, and determined that the decision to lay charges was reasonable in the circumstances and did not indicate misconduct on

the part of any MP members. As a result, the Deputy Commander directed that no PS investigation be started.

The complainant was not satisfied with PS' disposition of his complaint, and requested that the MPCC review the matter. The MPCC conducted an investigation and interviewed several witnesses, including the complainant, his wife and three of the MP subjects of the complaint.

The MPCC found that the allegations in the complaint were unsubstantiated. In particular, the MPCC found that the decision to charge the complainant was an exercise of police discretion by the investigating member. As confirmed by the Crown prosecutor involved, there were sufficient legal grounds to lay the charges. The investigator's decision to proceed was not unreasonable. Further, the evidence obtained indicated that the MP consulted a military prosecutor prior to laying the charges, and that the CoC was aware of the matter and supported the investigating member's decision. While formal approval from the CoC was not necessary pursuant to the policies applicable at the time, there were mechanisms in place to ensure that the CoC was kept advised of the developments and could intervene if necessary. The MPCC also found that the MP cannot be faulted for failing to interview witnesses, as they interviewed or attempted to interview the most important witnesses. Other witnesses cited by the complainant were character witnesses with no direct knowledge of the facts.

Further, the MPCC found that the supervision provided by the MP CoC was adequate, and that the members involved in the investigation demonstrated an adequate level of competence and experience. While the investigating MP member's experience was limited as he was a relatively new member, the offences and facts involved in this case were unusual and, as such, few police members would have had experience addressing these matters. In addition, the MPCC found that the service of the summons on the complainant was conducted in an appropriate manner. While the investigating MP member initiated the process outside the complainant's residence, his supervisor appropriately suggested they step inside. It was the belief of the MP members that the complainant was alone in the residence at the time, and they did not seek to embarrass or humiliate him in any way.

Although the MPCC found the allegations unsubstantiated, the MPCC made recommendations to address certain shortcomings identified during the review in terms of the lack of sufficient notes and records regarding the directions provided by and received from supervisors and the failure to consult with the civilian Crown prosecutor. The MPCC recommended that instructions be provided to MP members and supervisors to ensure that a record of direction provided and received is kept. The MPCC also recommended that MP members be reminded of the existing guidance in the MP Orders about seeking legal advice and be encouraged to consult with the relevant Crown prosecutor prior to laying charges in cases involving unusual facts or offences.

In response to the MPCC's report, the CFPM accepted all the MPCC's findings, as well as the MPCC's recommendation regarding records of direction provided by supervisors. The CFPM did not accept the recommendation regarding legal advice. The CFPM recognized that seeking legal advice prior to laying charges in cases involving unusual facts or offences is good practice, but did not believe there was a need to further reiterate existing policy guidance, and also noted that the guidance was found by the MPCC to have been complied with in this case.

Having considered this response, the MPCC notes that the MP members involved in this case did not consult with the civilian prosecutor prior to laying charges in the civilian justice system. While this was not a violation of existing policies, the MPCC finds that a reminder to MP members about the importance of seeking advice from the applicable military or civilian prosecutor prior

September 15, 2017, Outreach meeting – Chief Warrant Officer Dominic Gaudreau, Michel Séguin (Commission Member) Colonel Stéphane Boucher (Commander) and Geneviève Coutlée (Legal Counsel)

to laying charges, particularly in cases involving unusual facts or offences, would be helpful in ensuring that both the letter and spirit of the existing policy guidance are fully implemented.

Conduct Case Summary MPCC 2012-005 / Allegations that the MPs Charged the Wrong People

The complainants, a married couple who were both members of the Canadian Forces (CF) at the time, attended a social function at a Canadian military base. A dispute arose over the use of a taxi and the complainant husband was alleged to have pushed two female civilians. Two civilian males, one the spouse of one of the females who was allegedly pushed, then repeatedly and forcefully assaulted the complainant husband. The complainant wife then tried to move the assailants off the complainant husband. In the course of this, she was alleged by some witnesses to have struck one of the male assailants on the head with a beer stein. The complainant wife was then struck on the head with a beer stein by that assailant's spouse. Both complainants were taken to hospital, treated for their injuries and released from the emergency department early the following morning.

Military Police (MP) performed brief interviews at the scene. A few days later, the complainants went to their base MP detachment to register a complaint about the assaults. The lead investigator in the case, who was not one of the MPs who attended the scene of the altercation, interviewed several witnesses including the complainants, the two civilian females, the two male assailants, and several other witnesses who either were identified at the scene or were encouraged by the complainants and the other parties to the altercation to give statements. Approximately one week later, he laid charges of assault causing bodily harm against the two civilian male assailants. A few days after the two civilian male assailants were charged, the MP charged the complainant husband with assault for pushing the two civilian females, and the complainant wife with assault causing bodily harm for striking the male assailant with the beer stein. Ultimately the two male civilian assailants pleaded guilty. The complainant husband's charge was withdrawn when he entered a peace bond. He was further dealt with administratively

and was counselled by his unit for alcohol misuse. The complainant wife's charges were withdrawn by the civilian Crown and her Chain of Command determined there was no basis for administrative action against her.

One independent eyewitness who was briefly interviewed at the scene was not interviewed until after charges were laid. He, along with other witnesses, provided evidence capable of identifying the female who assaulted the complainant wife with a beer stein. The lead investigator did not pursue charges against this female.

The complainants alleged that the MP investigation was incomplete, that information was recorded inaccurately in the MP General Occurrence file that improperly led to criminal charges against the complainant wife and administrative action against the complainant husband. They also alleged that charges should have been pursued against the female who assaulted the complainant wife with a beer stein. They alleged that the lead investigator was unprofessional in his dealings with one witness, and alleged that it was possible that the evidence presented to the Crown for prosecution was tailored toward a particular result.

The MP Professional Standards (PS) review considered two allegations. First, they considered whether MP investigators contravened the *Military Police Professional Code of Conduct* (MPPCC) paragraph 4(l), which states an MP shall not "engage in conduct that is likely to discredit the military police or that calls into question the member's ability to carry out their duties in a faithful and impartial manner." This was specified as a failure to complete a thorough and accurate investigation which led to criminal charges being filed against both complainants. The second allegation was that MP investigators contravened the MPPCC paragraph 4(h), which states that an MP shall not "knowingly suppress, misrepresent or falsify information in a report or statement." This was specified as a failure to accurately capture and disclose information gathered from witnesses during the investigation.

The Professional Standards review found there was no violation of the MPPCC or the *Military Police Policies and Technical Procedures* (MPPTP). With respect to the first allegation, Professional Standards found that MP investigators conducted the investigation in compliance with the MPPTP and in compliance with

May 16, 2017, Bi-Annual meeting with CFPM – from left to right, – David Goetz (Senior Counsel), Julianne Dunbar (General Counsel), Hilary McCormack (Chairperson), Brigadier-General Robert Delaney (CFPM) and Lieutenant Colonel Brian Frei (then Deputy Commander)

the *Criminal Code of Canada (Criminal Code)*, in particular the provisions concerning arrest and arrest without a warrant. Professional Standards also concluded that the investigation furnished the reasonable and probable grounds (RPG) to pursue charges against the two male assailants of the complainants as well as the RPG to charge the complainants. The PS investigation found there was no violation of paragraph 4(l) of the MPPCC.

With respect to the second allegation, the PS investigation noted that there were some problems with recording equipment during interviews and that the lead investigator had neither recorded nor taken notes during the complainants' interviews. The PS investigation found that the lead investigator had properly and accurately entered the information obtained during the investigation into the Security and Military Police Information System (SAMPIS). It was found there was no violation of paragraph 4(h) of the MPPCC.

Upon review, the MPCC determined that the original MP investigation was in many respects incomplete, in particular in the failure to follow up on evidence which supported charges against the civilian female and was potentially exculpatory for the complainants. The MPCC also determined the file contained inaccuracies, and by failing to thoroughly investigate and accurately record their interviews, the MP's dealing with a witness were unprofessional. The Crown brief was no longer available to review, thus the MPCC found there was no evidence in support of the allegation of tailoring the evidence presented to the Crown. The MPCC found that the evidence did not support the laying of a charge against the complainant wife as the identification evidence was not strong, and she had a clear defence under s. 27 or s. 37 of the *Criminal Code*, which outline the circumstances in which one may commit what otherwise would be a criminal act in order to prevent the commission of an offence or to defend another person. The MPCC found the evidence did support the laying of charges against the civilian female. With respect to the complaint about the investigation leading to an administrative action the MPCC determined that review of the grounds for such a review was outside of its mandate and refrained from making any finding in this regard.

The MPCC made three recommendations in relation to this matter. First, the MPCC recommended that the Canadian Forces Provost Marshal (CFPM) remind MPs of the importance of following up on injuries in an investigation, particularly when injuries sustained by the parties may be relevant to the laying of charges and where there is an absence of victim/witness services. Second, it was recommended that the CFPM draft clearer policies and educational materials and training concerning when MPs should (and should not) "caution" (explicitly advise that they are not obligated to answer questions, but that if they do, their answers may be used as evidence against them in criminal proceedings) witnesses when being interviewed. In particular, the use of what is termed a "soft caution", and the cautioning of witnesses who are neither subjects nor suspects, should cease. Third, it was recommended the CFPM develop specific policies which stress the relationship between the quality of an investigation and professional standards, and make it clear that substandard investigations will be the subject of professional standards investigations despite not rising to the level of misconduct under the *Military Police Professional Code of Conduct*.

In response to the MPCC's Report, the CFPM accepted all of the MPCC's findings. The CFPM also accepted the MPCC's recommendations, and stated they will be immediately implemented.

Conduct Case Summary MPCC 2015-009 / Allegations MPs Failed to Follow Directives for Reporting Sexual Assaults

This complaint arose from interactions between a member of the Military Police (MP) and the complainant, a civilian who wished to file a complaint for sexual assault through consent obtained by fraud.

In January, the complainant met a Canadian Armed Forces (CAF) member in a bar and became involved in an intimate relationship with him. During the following weeks, the CAF member visited the complainant and communicated with her regularly. The complainant later learned that the CAF member went by a different last name than the one he had provided when they had met, and that he was not separated from his common law partner as he had claimed. Following these events, the complainant believed the CAF member had deceived her, and that she would not have consented to pursuing an intimate relationship with him had she known the truth. In May, she contacted the Deputy Judge Advocate General (DJAG) at the Base where the CAF member had been attending a course, in order to report the matter. During this call, she also mentioned statements the CAF member had made during their relationship indicating he may be connected to dangerous individuals, as well as threatening language he had used when she had indicated she wished to report the matter.

The complainant reluctantly agreed to report the matter to the MP. An MP investigator contacted the complainant and scheduled an interview the next day. This interview had to be interrupted due to a high-priority call related to a bomb threat on the Base. When the MP investigator phoned the complainant the same evening to schedule a time to continue the interview, she indicated she had discussed the matter with her family and did not wish to go forward with any investigation. She asked that the information she had already provided be kept on file and that the CAF member not be advised she had contacted the MP.

In late June, the complainant contacted the MP investigator and indicated she now wished to proceed with her statement. A second interview was held shortly after. During this interview, the complainant explained that she had previously decided not to proceed because she had been scared, but had since made inquiries to find out more about the CAF member, and conducted legal research. The complainant indicated she now wished to proceed with filing a complaint for sexual assault through consent obtained by fraud. She advised the MP investigator that she had also contacted the Royal Canadian Mounted Police (RCMP), that the RCMP had initially told her this was not a criminal matter, but that upon being advised of her research, the RCMP had consulted with provincial Crown prosecutors and had been advised to obtain her statement so the case could be reviewed. She was to provide her statement to the RCMP in the coming weeks. The MP investigator advised the complainant that the MP did not have jurisdiction to investigate or lay charges in connection with the alleged criminal offences that took place off Base and were unrelated to the CAF member's work duties. However, the MP investigator took the complainant's information and advised her that a Report would be sent to the CAF member's Commanding Officer (CO) so that the CO could determine whether to lay charges in the military justice system or take any other measures.

> "Police oversight, the police, and the communities they serve are inextricably intertwined."
>
> FROM THE REPORT OF THE INDEPENDENT POLICE OVERSIGHT REVIEW, THE HONOURABLE MICHAEL H. TULLOCH

In September, the complainant contacted the MP Detachment to complain that no action had been taken on the file. During the following days and weeks, the MP member she spoke with made verifications about the file and advised the complainant the file would soon be sent to the CAF member's Unit. The complainant had several conversations with this MP member and sent a number of electronic messages setting out case law, *Criminal Code* sections and extracts from the Code of Values and Ethics for military personnel that

she believed were relevant to her case. As she had stated during her second interview with the MP investigator, the complainant felt the CAF member's conduct breached the code of ethics and that CAF members should be held accountable to a higher standard. In October, the MP investigator contacted the RCMP to inquire about the status of their investigation, and was told the file had been provided to the provincial prosecutors for review. The MP Detachment Chain of Command (CoC) advised the complainant that the MP were waiting to find out about the results of the RCMP investigation, and whether charges would be laid in the civilian justice system, prior to sending the file to the CAF member's CO. The complainant expressed frustration with the process, but in a subsequent call requested that the MP hold off on sending the file until a decision was made regarding charges.

In late November, the MP learned that no charges were to be laid following the RCMP investigation. In early December, the MP investigator added Concluding Remarks to the file and advised the complainant it would be sent to the CAF member's CO. The file was sent to the member's Unit and returned with a hand-written notation indicating that Unit action was taken. In early January, the following year, the complainant contacted the MP investigator for an update. The investigator confirmed the file had been sent to the member's Unit, but was not aware what action was taken, if any.

In late March, the complainant transmitted a complaint to the Military Police Complaints Commission (MPCC or the Commission). The complaint alleges that the MP Detachment, and specifically the MP investigator who was named as the subject of her complaint, failed to follow the applicable directives and protocols for reporting sexual assaults and breaches of codes of values and ethics and Acts of Parliament. In April, the complainant responded to a request for further information about her complaint. In this message, she alleged that, during her second interview with the MP, the subject of the complaint attempted to dissuade her from providing additional information, telling her it would do no good and make no difference, and only reluctantly agreed to let her complete her statement after she insisted the information needed to be documented.

The complaint was directed to the Canadian Forces Provost Marshal (CFPM) to be dealt with in the first instance as per the *National Defence Act* (NDA). The Canadian Forces Military Police Group's (CF MP Gp) Professional Standards (PS) section conducted a preliminary review of the complaint. Following this review, the Deputy Commander for the CF MP Gp determined that the appropriate actions had been taken by the subject of the complaint throughout the investigation; that these actions were well documented and did not support the allegation that the applicable protocols and directives had not been followed; and that the actions taken by the subject were inconsistent with the actions of someone trying to dissuade the complainant from bringing forward her allegations. As a result, the Deputy Commander directed that no PS investigation be started.

The complainant was not satisfied with PS' disposition of her complaint, and requested that the Commission review the matter. The Commission conducted a detailed review and analysis of the MP file and interview recordings. In addition, the Commission conducted an interview with the subject of the complaint to obtain additional clarification and conducted additional investigation to find out what action was taken by the CAF member's Unit in this matter. Through this investigation, the Commission learned that administrative measures were taken by the Unit to address the member's conduct.

The Commission found that both allegations in the complaint are unsubstantiated. In particular, the Commission found that the MP investigator took all necessary steps to document and report on the complainant's allegations. As the MP investigator correctly explained to the complainant, the MP did

not have jurisdiction to investigate or lay charges in relation to the alleged criminal offences which occurred outside its jurisdiction. The MP investigator appropriately advised the complainant that these allegations needed to be pursued with the RCMP. The investigator nevertheless documented the complainant's allegations, and included the information in the MP Report. As had been explained to the complainant, a summary of this Report was sent to the CAF member's Unit. It was for the member's CO to determine whether to lay charges under the military justice system or take other measures. In this case, administrative measures were taken by the member's Unit. The subject of the complaint cannot be faulted for not having sent the MP Report to the member's CO prior to the conclusion of the RCMP investigation and the decision on whether Criminal Code charges would be laid, as this was important information to include in the Report. Further, the subject of the complaint cannot be faulted for not including every detail of the complainant's allegations in the summary sent to the member's Unit. The documents sent captured the essence of the allegations made by the complainant. Other allegations, including the complainant's allegations that the CAF member made threatening statements, were appropriately documented in the MP file, and the subject of the complaint advised the complainant clearly that these aspects needed to be pursued with the RCMP and that she should contact the RCMP if she felt threatened.

The Commission also found that the subject of the complaint made no attempt to dissuade the complainant from providing additional information. The recording for the interviews conducted by the subject of the complaint show that he listened to all of the information the complainant had to provide and asked if she had additional information to provide. While the subject appropriately explained to the complainant the limits of the MP's jurisdiction in this case, he did not tell the complainant that providing more information would make no difference. He advised her that her information would be added to the MP file and that a report would be sent to the CAF member's Unit, and he proceeded to record the information and have the file sent once the results of the RCMP investigation were known.

In response to the Commission's Report, the CFPM accepted all of the Commission's findings.

Conduct Case Summary MPCC 2014-034 / Allegations of Improper Search & Seizure

This complaint arose from the execution of a search warrant at the complainant's residence. The complainant was a Canadian Armed Forces (CAF) member employed on a nearby military base, but his house was located off-base. The search was further to an investigation of the complainant by the local Military Police (MP) detachment in regard to suspected security of information infractions related to his use of, and access to, Department of National Defence (DND) information technology (IT) networks. The search warrant was directed at computer and other IT devices at the complainant's residence belonging to either him or his spouse. Some 41 items were seized by the MPs from the complainant's residence.

The complainant took issue with the MPs' seizure of four items: (1) a child's iPad belonging to a young girl who attended the home daycare run by his spouse; (2) a computer tower belonging to his mother, who also resided at the complainant's home; (3) a laptop belonging to an area college which the mother (a student at the college) was using; and (4) a bayonet which the complainant had apparently purchased at a garage sale. In the complainant's view, these items fell outside the warrant and should not have been seized. While these items were subsequently returned to the complainant, he complains that their return was subject to undue delay.

The complainant further alleges that his laptop, which had been among the items seized by the MPs, was damaged while being examined in MP custody and that he was denied compensation for this.

The complainant further objected to MPs showing up at his door to ask him questions, also calling him, his wife and his supervisor and leaving messages to contact them.

Finally, the complainant alleges that MPs at the detachment failed to accept his conduct complaint when he attempted to submit it to them.

Following an investigation, the Military Police Complaints Commission (MPCC) concluded that the first allegation was partially substantiated in that the child's iPad did not belong to anyone who normally resided in the home, and with respect to the complainant's bayonet, while apparently indistinguishable from a CAF-issued bayonet, the MPs responsible for the seizure were unable to specify the law or regulation that its presence in the home would have violated.

The second allegation was also partially substantiated in that the bayonet was not returned to the complainant for five months, nor was it made the subject of a Report to Justice and Detention Order following its seizure.

The third allegation was found to be unsubstantiated due to the fact that the person examining the laptop at the time it was damaged was a civilian technician, and not an MP. Further, there were no MPs directing the technician's work. Finally, the decision not to approve compensation for the damage was the responsibility of a CAF legal officer, not an MP.

The fourth allegation was also concluded to be unsubstantiated, as the MPs, in attending at the complainant's residence and trying to contact him by telephone, were merely attempting to seek the return of some of the seized items which had apparently been returned to the complainant by mistake two days prior. The MPs did not conduct themselves in an unprofessional manner.

Finally, the MPCC has concluded that, though it was done through ignorance rather than bad faith, the failure of the MP member and his shift supervisor to accept the complainant's conduct complaint was contrary to the legislative scheme and applicable MP policies. As such, this allegation was substantiated.

The MPCC noted a certain amount of confusion stemming from the failure to tag and log all seized items at the scene (apparently due to a shortage of evidence tags). As a result, the MPCC recommended that the Canadian Forces Provost Marshal (CFPM) take steps to remind this MP detachment of the need to tag and log all seized items at the scene and to ensure adequate supplies of the necessary materials are on-hand before executing a search warrant.

"For the public to have confidence that the police will be held accountable, the investigation and resolution of such matters often requires the involvement of an outside investigative body."

FROM THE REPORT OF THE INDEPENDENT POLICE OVERSIGHT REVIEW, THE HONOURABLE MICHAEL H. TULLOCH

In response to the Commission's Report, the CFPM accepted all of the MPCC's findings as well as the MPCC's recommendation; however, the CFPM only partially accepted the MPCC's Finding #1, regarding the correctness of the MPs seizing certain items from the complainant's home. The CFPM concurred with the MPCC analysis in part, as it related to the bayonet, and advised that the unit Chain of Command will be directed to conduct remedial training regarding protocols for the seizure of items during the execution of a search warrant. The CFPM further advised that, with regard to the other two IT devices that were

seized, his position is that these items should not require ownership to be established through information provided by persons in the residence at the time of a search, where such information cannot be objectively and immediately verified. As such, the CFPM did not accept this portion of the MPCC's finding.

After consideration of the CFPM's Notice of Action response on this issue, the MPCC reiterated that its finding had only taken issue with the seizure of one IT device: the iPad belonging to one of the children who attended the daycare at the home. In the MPCC's view, the appearance and location of the device were such that its ownership by a third party who was not a resident of the home would have been apparent, even in the absence of the homeowners' assertions regarding the device's ownership. As such, the MPCC re-affirmed this finding.

Conduct Case Summary MPCC 2015-011 / Allegation of Flawed MP Investigation

This Military Police (MP) conduct complaint arose out of the investigation of a complaint against an officer who was a member of the Cadet Instructing Cadre (CIC) at a cadet camp. The complaint, made by a fellow CIC officer, was to the effect that the subject CIC officer had lived rent-free on a year-round basis at the cadet camp for a number of years. The complaint was made initially with the Chain of Command, however, the army Area Commander ordered an MP investigation.

As the MP investigation into the complainant's allegations commenced, the MPs became aware that the same subject CIC officer was also alleged to have committed a sexual assault against another instructor at the cadet camp. As a result, the investigation of the subject officer was divided into two investigations, with the sexual assault aspect being taken over by the CFNIS, while the alleged fraud in relation to rent-free occupation of the camp remained with the regular garrison MPs. However, due to an overlap in relevant witnesses and the priority given to the sexual assault investigation, the CFNIS agreed to help the other investigating MPs by asking appropriate witnesses questions pertinent to the fraud investigation and sharing relevant information with the MPs.

In the end, the MP investigation concluded there had been no criminal wrongdoing, as they had determined that the subject CIC officer had received authorization from his commanding officer to reside at the camp in the off-season and store personal effects there, and that he had been charged and paid the applicable fees.

The complainant was dissatisfied with the results of the MP investigation and believed that the investigation was flawed. He filed an MP conduct complaint with the MPCC.

For their part, Canadian Forces Military Police Group (CF MP Gp) Professional Standards (who deal with MP conduct complaints in the first instance) concluded, based on a review of the MP investigation file, that the investigation had been professional and thorough, and therefore found the complaint to be unsubstantiated.

Soon after the completion of the MP Professional Standards investigation, the Department of National Defence (DND)'s Internal Disclosure Office (IDO) released the results of its own investigation into the matter and concluded that the subject CIC officer had in fact resided at the cadet camp year round over a couple of years and did not pay rent. The IDO therefore assessed the subject officer residency fees for the period in question. The IDO also determined that the authorization given for the officer to reside and store personal effects at the camp had been improperly given by the camp commandant on the basis of a personal connection with the officer. As the IDO investigation was also triggered by allegations from the complainant, he received a copy of their report.

Noting the apparent contradiction in the results of the MP (including Professional Standards) and IDO

investigations, the complainant requested a review of his MP conduct complaint by the MPCC.

Following its own review of the MP fraud investigation file – including relevant information from the overlapping CFNIS sexual assault investigation, available IDO information, and its own further investigative efforts – the MPCC found that the investigation of the complainant's allegations was indeed flawed in a number of respects, and therefore found the MP conduct complaint to be substantiated. This finding was based on a number of noted deficiencies, including: inadequate cooperation from the CFNIS investigators; failure to interview key witnesses identified in the MPs' own investigation plans; failure to pursue information relevant to determining the entire period that the subject CIC officer was improperly residing and storing his effects at the camp; failure to interpret and probe appropriately the subject officer's pay records; and failure to investigate the timing and legitimacy of the camp commanding officer's authorization to the subject officer to make such personal use of the camp facilities.

The MPCC made five recommendations as a result of its review.

First, that the CFPM ensure that a 'lessons learned' review of the MP investigation at issue in this complaint be conducted, and that the two subject MPs in respect of whom the complaint was substantiated be involved with this review.

Second, that the CFPM review the criteria for triggering CFNIS investigations to ensure they are sufficiently broad, with particular reference to situations where there is significant overlap with a separate non-CFNIS MP investigation.

Third, that the CFPM ensure that there is clear policy direction in place such that the assignment of investigations to MP units can be done quickly.

Fourth, that the CFPM ensure that appropriate policies are in place to ensure proper liaison between the CFNIS and other MP units when they cooperate on investigations.

Fifth, that the CFPM look for ways for the MPs to work with DND's Directorate of Special Examinations and Investigations (DSEI) in fraud investigations.

The MPCC also made some observations in this case regarding the following matters: note-taking practices of one of the CFNIS investigators; questionable classifications of investigative activities as administrative activities in the MP investigation file; and the importance of timely identification and notification of all subject MPs by Professional Standards prior to the MPCC review stage of a conduct complaint.

In response to the MPCC's Report, the CFPM accepted the MPCC's finding as well as the MPCC's recommendations.

PART 3 – **STEWARDSHIP EXCELLENCE**

I MENTAL HEALTH AND WELLNESS

The MPCC continued to put the spotlight on mental health and workplace well-being through communiqués, workshops and discussions.

In February, Health Canada provided a training to MPCC staff on the subject of Resilience and Stress Management. The training covered numerous topics including identifying stressors, an overview of Post-Traumatic Stress Disorder as well as depression and suicide. In June, the MPCC launched LifeSpeak. LifeSpeak provides 24/7 mobile access to a confidential, bilingual, e-learning platform to employees and their families with information on improving physical and mental health, financial health, family relationships, and professional skills development. In addition, the MPCC participated in the *Not Myself Today* program. This initiative, developed by the national charity Partners for Mental Health, aims to engage workplaces across Canada to support mental health and those who may be facing challenges. Staff were provided with information, tools and resources to raise awareness and understanding of mental health, reduce stigma and help build a psychologically safe and supportive work culture.

Together, we made important progress in recognizing the importance of mental health. We continue to challenge ourselves to have honest and open dialogue about mental health to ensure a healthier and more productive Public Service.

II FINANCIAL MANAGEMENT

In 2017, the MPCC continued to demonstrate sound management of its financial resources. It effectively planned, managed and controlled its budget and expenditures to meet operational and central agency requirements including timely and accurate financial reporting. Throughout 2017, regular financial updates were provided internally to the MPCC Executive Committee and externally to central agencies in order to reinforce rigorous financial management and control.

Operating Budget: The MPCC's ongoing annual budget of $4.2M supports the delivery of the MPCC's legislative mandate under Part IV of the *National Defence Act*. This includes complaints resolution and all other activities to support central agencies' requirements, and reporting to central agencies and Parliament (Departmental Plans, Departmental Results Reports, Annual Reports, Financial Statements and Quarterly Financial Reports).

Additional Financial Information: Additional financial information about the MPCC's financial and expenditure management can be found in the Publications Section of the MPCC's website in the Departmental Plan, the Departmental Results Report, Quarterly Financial Reports, Annual Financial Statements and Proactive Disclosures.

III PUBLIC SERVICE EMPLOYEE ANNUAL SURVEY

The Chief Human Resources Officer conducted its first Public Service Employee Annual Survey in early 2017 which focused on *My Workplace, Workplace Well-Being, Harassment and Discrimination*. The survey results were very favourable to the MPCC, validating our efforts at promoting a diverse, respectful workplace, free from harassment and discrimination which values the mental health of employees.

PART 4 – **CONCLUSION**

At the MPCC, we are guided by our mandate and are constantly looking for ways to advance our ability to meet the responsibilities entrusted to us. We therefore look forward to the next legislative review of our governing legislation in 2020 which we hope will be an opportunity to implement the many lessons learned over the previous two decades.

Consequently, it was of great interest to us when in April of this year, the Ontario Independent Police Oversight Review led by Justice Michael H. Tulloch released its Report[1] described by the news media as 'revolutionary.'

In November, the Ontario Government tabled legislation to implement some of the recommendations, including giving greater powers to the province's three police oversight bodies and, in turn, demanding greater transparency from them. Prior to changes to police oversight in Ontario, the complaints and oversight regime of the RCMP was revamped in 2013. This is particularly noteworthy since the MPCC was originally modeled on the previous oversight regime for the RCMP.

These advances in the realm of civilian oversight of police will be instructive, but so will our own experience since the inception of the MPCC in 1999. For example, we have learned that our ability to deal with complaints involving sensitive information in a credible and more time and resource-effective manner would be greatly enhanced if we were a 'designated entity' under the *Canada Evidence Act*'s Section 38 schedule. We note that the RCMP Review and Complaints Commission became a designated entity in 2014. Being listed on this schedule allows an organization to receive (but not necessarily to release) sensitive information relating to national security, defence and international affairs. The alternative is a time-consuming challenge to the Federal Court. Relevant Commission personnel already have the necessary security clearances.

As the military police may be called upon to conduct investigations in overseas combat or peace-keeping theatres, the Commission's ability to efficiently access this type of information is not merely a theoretical requirement. The MPCC has already conducted a Public Interest Hearing (MPCC 2008-042) where such information figured prominently. It is impossible to know when the Commission will next be required to investigate a complaint involving sensitive operational information, but we do know that there will be a next time.

The Commission has previously recommended this simple change in a past Public Interest Hearing report and in its 2016 Annual Report. We now renew this call for action.

1 *Report of the Independent Police Oversight Review*, 2017 https://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/police_oversight_review/

We also want to explore a possible mechanism for limited access to information now unavailable to us because of solicitor-client privilege. Occasionally, we receive a complaint that we could more fairly and accurately resolve if we had that access: cases where the subject MP may have sought legal advice before taking the very action that is the crux of the complaint (e.g., conducting a search, making an arrest, deciding to lay, or not to lay, charges, etc.). We note again that the RCMP has a mechanism in place to allow for such access.

Sometimes there can be different interpretations as to whether a complaint falls within the mandate of the MP complaints process. When an aggrieved person decides to make a complaint against a military police member, they can do so through several portals – the MPCC, the JAG, CFPM or any MP. For example, the CFPM may decide the complaint is not within the jurisdiction of the MPCC. It makes good sense for the Commission to be the sole arbiter as to whether the MPCC has jurisdiction.

A consistent theme in our investigations of complaints against military police in the first instance is a lack of experience in certain areas of police work. Military police are generally well-trained and since the implementation of Operation Honour in August 2015 there has been an increased emphasis on training for military police investigations of sexual assault allegations.

The CFPM has demonstrated real leadership in implementing numerous policies and procedures and established a dedicated team of 18 sexual assault investigators trained in interviewing trauma victims and enhancing skills in modern evidence gathering to prosecute those responsible for sexual offences.

In other areas of police work, on the job experience remains elusive for the simple reason that military police are rarely called upon to investigate the types of serious offenses for which dedicated major crimes units have been created in metropolitan police services. An important contribution, as we see it, is to increase the number of secondments of military police members to civilian police forces where they can both learn and contribute. This level of practical skill and experience can only enhance military policing and we cannot emphasize strongly enough the great benefits to the MP in aggressively pursuing these opportunities.

There are differences between military and civilian policing but as we reflect on the Tulloch report, and the related overhaul of Ontario's policing legislation, it is clear that the principles and purpose of civilian oversight of police are similar in both worlds. Both have as their fundamental objective to promote public trust in policing.

We look forward to the opportunity provided by the statutorily required legislative review of our mandate in 2020. In pursuing these goals, we hope we can count on the support and collaboration of our partners in the National Defence leadership, the CFPM and the entire Military Police community.

Hilary C. McCormack, LL.B.
Fellow Litigation Counsel of America
Chairperson

OUR ORGANIZATION

BIOGRAPHY OF THE CHAIRPERSON

Hilary C. McCormack, LL.B.
Chairperson

Hilary McCormack was appointed Chairperson of the Military Police Complaints Commission of Canada (MPCC), effective October 5, 2015.

Prior to her appointment, Ms. McCormack was Director of Crown Operations (East Region) at the Ontario Ministry of the Attorney General, a position she had held since 2009. As Regional Crown Attorney, she supervised 10 Crown Attorney offices and was responsible for criminal prosecutions and summary conviction appeals in Eastern Ontario. In addition to her management duties, Ms. McCormack continued to prosecute many high profile and complex trials. She received the Ministry of the Attorney General Excelsior Deputy's Award in 2010.

Ms. McCormack graduated from the University of Western Ontario's law school. Following her call to the Ontario Bar in 1980, she was in private practice for three years before joining the Ontario Ministry of the Attorney General as Assistant Crown Attorney in 1983. She was seconded to the federal Department of Justice in 1992. Her work as General Counsel, Criminal Law and Policy, resulted in amendments to the *Criminal Code of Canada* which enhanced the general protection of women and children from sexual and physical violence, for which she received the Department of Justice Deputy Minister's Merit Award in 1994.

She returned to the Ontario Ministry of the Attorney General in 1994 where she continued to prosecute complex homicides and to develop her expertise in a number of criminal justice issues: child abuse, sexual assault and domestic violence; best practices in case management and trial processes and mental health. Over the course of her career, she travelled to Thailand and Kosovo to provide legislative and policy advice in these areas and frequently hosted many foreign delegations, including delegations from Russia, China, Afghanistan and the Palestinian Authority, on systemic issues and best practices.

Ms. McCormack prosecuted the first case in Canada to successfully use DNA evidence. She subsequently established an *ad hoc* committee to provide advice about the use of DNA evidence to Crown prosecution services and police services across Canada and internationally. She also worked on policy and legislative initiatives for both the DNA warrant provisions and the DNA data base which have transformed policing and prosecutions in Canada. This interest in facilitating transformative change also prompted her to implement a Drug Treatment Court, an Adult Mental Health Court and, for the first time in Canada, a Youth Mental Health Court while she was the Crown Attorney for Ottawa, an appointment she received in 2000, and the first woman to ever hold that position.

Between 2000 and 2005, Hilary McCormack was a member of the Department of National Defence's Military Police Advisory Committee which provided advice to senior military leadership about significant changes to the military police and their investigative capacity. The Committee's recommendations improved the military police's relationship with civilian courts and prosecution services, and provided opportunities for enhanced police training and education. In April, 2016, she was formally inducted into the Litigation Counsel of America at the LCA's 2016 Spring Conference & Celebration of Fellows. She is a member of the International Commission of Jurists Canada.

Hilary McCormack has taught criminal law at the University of Ottawa, at the Bar Admission course, and served on the faculty of the Federation of Law Societies Criminal Law program. She is a frequent speaker at judicial, legal and police conferences, helped develop instructional material for the National Judicial Institute, and written and published extensively on various legal issues. She has served as a volunteer on the boards of directors and committees of not-for-profit organizations.

BIOGRAPHIES OF THE COMMISSION MEMBERS

Troy DeSouza
(October 2015 – present)
Commission Member

Troy DeSouza was appointed as a Commission Member for a four-year term on June 22, 2015.

A long-time resident of Victoria, British Columbia, he has practiced law in B.C. for the past 19 years, providing legal advice to local government clients. He has conducted litigation before administrative tribunals, appeal boards, and at all levels of courts in British Columbia.

Mr. DeSouza is also an educator. He has created several courses for local government staff and elected officials. He is a member of numerous professional organizations, and was past Chair of the Municipal Law Section of the Canadian Bar Association, B.C. Branch.

Troy DeSouza is a graduate of the University of Windsor's law school. He had a diverse career before being called to the Bar in 1998. He worked as a consultant for the Attorney General of Ontario, and served seven years in the Canadian Armed Forces where he attained the rank of Captain.

Michel Séguin
(March 2014 – present)
Commission Member

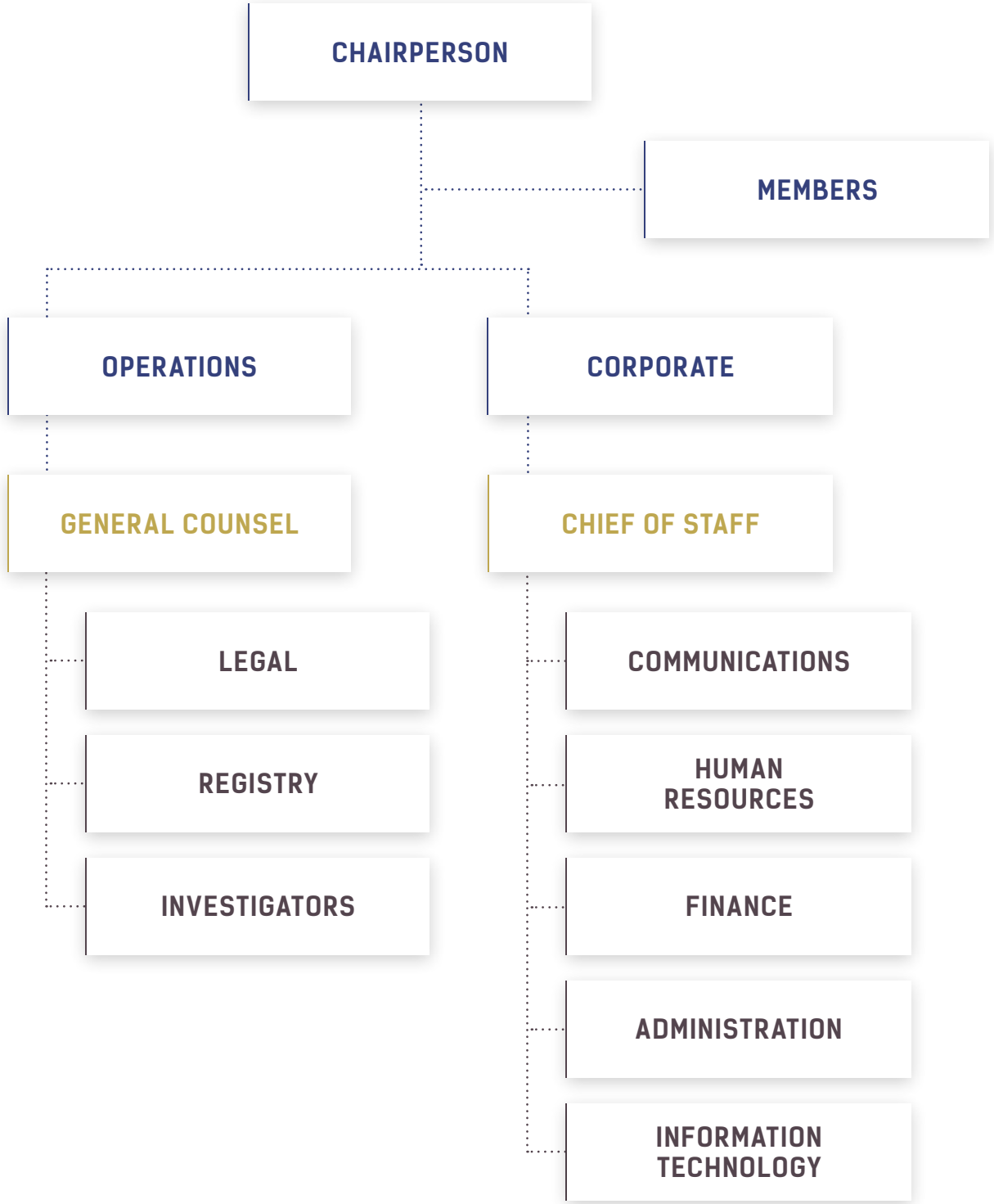
Michel Séguin was appointed Commission Member on March 6, 2014. He was appointed Interim Chairperson after Mr. Glenn Stannard's retirement in March 2015 and served in that role until October 2015.

Mr. Séguin has extensive operational policing experience, having spent 33 years with the Royal Canadian Mounted Police (RCMP). During his service with the RCMP, he held the position of Ethics and Integrity Advisor and sat as an adjudicator for Code of Conduct hearings. Mr. Séguin retired from the RCMP in 2008 as Assistant Commissioner and the Commanding Officer of "O" Division (Ontario).

After his retirement from the RCMP, Mr. Séguin joined the House of Commons Administration as Director General, Parliamentary Accommodations Services, a post he held for five years.

Mr. Séguin was invested as an Officer of the Order of Merit of the Police Forces in May 2008.

ORGANIZATION CHART



HOW TO REACH THE MILITARY POLICE COMPLAINTS COMMISSION OF CANADA

Call our information line

613-947-5625 or toll-free at 1-800-632-0566

Send us a fax

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

Send us a letter

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

Visit us at the above address for a private consultation. An appointment is recommended.

Send us an email

commission@mpcc-cppm.gc.ca

Note: Please do not send confidential information via email.

We cannot guarantee the security of electronic communications.

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