

Annual Report

2002 • 2003

Fair Treatment
Positive Change

A place to turn —
Contributing to a healthy
DND/CF community



June 2003

The Honourable John McCallum, P.C., M.P.
Minister of National Defence
National Defence Headquarters
MGen George R. Pearkes Building
101 Colonel By Drive
Ottawa, Canada
K1A 0K2

Dear Minister,

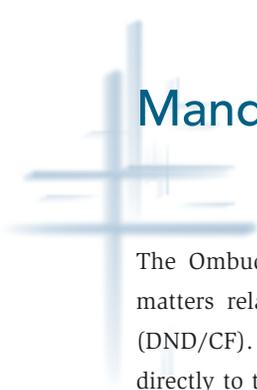
I am pleased to submit the fifth annual report from the Office of the Ombudsman for tabling in the House of Commons.

This report provides an overview of our operations from the beginning of April 2002 to the end of the fiscal year in March 2003.

Yours truly,



André Marin
Ombudsman



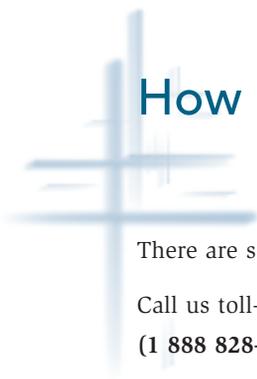
Mandate

The Ombudsman investigates complaints and serves as a neutral third party on matters related to the Department of National Defence and the Canadian Forces (DND/CF). Acting independently of the chain of command and managers, he reports directly to the Minister of National Defence.

The Office is a direct source of information, referral, and education for the men and women of DND/CF. Its role is to help individuals access existing channels of assistance or redress when they have a complaint or concern. In addition, the Ombudsman may investigate and report publicly on matters affecting the welfare of members and employees of DND/CF and others falling within his jurisdiction. The ultimate goal is to contribute to substantial and long-lasting improvements.

Any of the following may bring a complaint to the Ombudsman when the matter is directly related to DND or the CF.

- A current or former member of the CF
- A current or former member of the Cadets
- A current or former employee of DND
- A current or former non public fund employee
- A person applying to become a member
- A member of the immediate family of any of the above-mentioned
- An individual on an exchange or secondment with the CF



How to Contact Us

There are several ways to reach the Office of the Ombudsman:

Call us toll-free at **1-88-88-BUDMAN**
(**1 888 828-3626**) and speak to an intake officer.

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

Office of the Ombudsman
100 Metcalfe Street, 12th Floor
Ottawa, Ontario
K1P 5M1

Send us a fax at **613 992-3167** or toll-free at **1 877 471-4447**.
For information about sending a secure fax, please call **613 992-0787**.

Fill out the online complaints form and mail or fax it to us.
(Please do not send confidential information by e-mail, as we
cannot guarantee privacy at this time.)

Visit our Office for a private consultation. Appointments are recommended.

For further information about the Office, please visit us online at:

Internet: **www.ombudsman.forces.gc.ca**
Intranet: **ombudsman.mil.ca**

or call our general enquiries line at **613 992-0787**.

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The Year in Review

We, in the Office of the Ombudsman, define our ultimate goal as contributing to a healthy DND/CF community. In last year's report, I noted how world events had driven home the urgency of this goal. Indeed, the perilous state of international affairs continues to demonstrate how crucial it is for the CF to be a strong and effective institution.

Soldiering is a remarkable form of public service that entails unparalleled physical and psychological risks. I had the good fortune in 2002 to visit soldiers deployed in Afghanistan

as part of my outreach program. Coming face to face with soldiers in the field really drove home the point that our work is neither abstract nor unimportant. It is about people who have been cast into difficult situations.

Recent history has underscored how imperative it is, as a simple matter of human decency and justice, for those who commit themselves to the task of soldiering to be rewarded and recognized for their sacrifice. They must be treated with respect, dignity, and compassion, rather than as mere pawns to be moved about the global chessboard. This is not simply an imperative of human decency – it is a counsel of prudence. In fact, positive morale, ethics, and a sense of personal worth are as crucial to an armed force as is weaponry and training.

I am convinced that the way to fulfill this urgent challenge, and to achieve a healthy DND/CF community, is to ensure that fair treatment leads to positive change. I am also convinced that this can be accomplished only by giving members and employees “a place to turn.”

It has been five years since I was appointed as Ombudsman and given the responsibility of providing members of the defence community with this “place to turn.” It has also been eighteen months since this Office completed a three-year struggle to negotiate the current mandate. I am intensely proud to say that our accomplishments demonstrate that we have become not only the key broker for the fair treatment of individuals within DND/CF, we have become a unique and indispensable spearhead for change and institutional improvement.



**A simple
matter of
human
decency and
justice**

Fair Treatment of Individuals: The Problem-Solving Dimension

Again, the fiscal year 2002-2003 saw an increase in the number of complaints received. We were called upon to help more than 1,600 times. This increase in the number of complaints continues a steady trend since the inception of the Office. It should not be taken as a sign that things are deteriorating in the CF.

Indeed, as this report demonstrates, we are making real progress.

Rather than a sign of failure within DND/CF, the continued increase in complaints is a testament to our credibility and our track record in resolving problems effectively and informally. Problems that would have contributed to discontent, resentment, or even illness in the past are now being brought to us and we are making a difference.

**Making this
difference
without the
acrimony and
expense of
litigation**

What I am most proud of is that we are making this difference without the acrimony and expense of litigation. We are doing so without rigid procedures, and without the expense and adversarial atmosphere that can so easily characterize formal complaint mechanisms. As I have maintained from the outset, the primary advantage of an ombudsman's model for dispute settlement is its informality. Sometimes, simply presenting new information to responsible decision makers can solve problems. Often, a set of new and impartial eyes looking at what appears to be an intractable problem is all that is required.

In this report, you will find instances where our Office uncovered new information that persuaded decision-makers to change their minds. Whether this fact-finding involved identifying suitable transfers or discovering discrepancies in release dates, our intervention helped improve the quality of life and the quality of the military experience for people who had become frustrated and jaded.

This Office also uses moral suasion to combat bureaucratic inertia. In the last year, we were able to assist in quickly settling disputes that had been long delayed. Steps were taken to assist the Minister in resolving grievances remaining under the old grievance system. Closer monitoring contributed to the resolution of 27 of 30 grievances, some of which had been outstanding for two or more years. We continue our attempts to combat delays in the new grievance system.

By putting a human face on things we overcome bureaucratic decision-making. This enables reason rather than rigid rules to govern in appropriate cases. For example, a member who was doing an outstanding job after being reassigned to non-combat duties in an understaffed sector was going to be released because of existing regulations. Our intercession prevented him from becoming a "disposable soldier." We also brokered a settlement preventing the absurd release of a member because of a low-risk allergy. These are not just stories. These are experiences of real people whose fortunes changed for the better because of the work done in this Office.

A Spearhead For Change and Institutional Improvement

The ombudsman model is not an adjudicative process. Our focus is not on who wins and who loses. It is on compromise and negotiation. It enables my Office to look at particular complaints through a wider lens, focusing on broader problems and crafting systemic solutions. Once again, I am pleased to report that we have made major contributions to policy and practice within the DND/CF, all designed to improve the quality of life of members and strengthen the institution.

Again this year, our primary efforts have related to post traumatic stress disorder (PTSD) and other operational stress injuries (OSIs), a problem that had been neglected for too long. Our nine month *Review of DND/CF Actions on Operational Stress Injuries*, following up on our 2002 report, *Systemic Treatment of CF Members with PTSD*, confirmed that most of the 31 recommendations made in the initial report have been implemented with measurable progress. Awareness, education, and services for assisting those with OSIs have improved. In fact, practical steps to mitigate the risks of PTSD, such as decompression time and gradual reintegration after a mission, have been adopted. The Chief of the Defence Staff, General Raymond Henault, deserves significant credit for this progress. He has been committed and unequivocal in joining us in addressing this long-standing problem.

Our focus is not on who wins and who loses

There is still much work to be done in promoting cultural change particularly at the field level. The outrageous “Crazy Train” episode followed by an inadequate internal investigation, described in this annual report, illustrates as much. But we are on the right road, as the decisive and supportive response of the Chief of the Defence Staff to the *Off the Rails: Crazy Train Float Mocks Operational Stress Injury Sufferers* report demonstrates. I will continue to monitor progress in this area.

This was not the only area where we made positive changes to the system. There have been other diverse contributions detailed in this report that will have widespread impact. Many of these issues pose serious challenges to DND/CF and I am confident that I will be able to assist in accomplishing appropriate changes and improvements.

Co-operation: Mixed Progress

It is no secret that there were pockets of resistance at the outset. A flexible dispute settlement mechanism operating outside of the chain of command, which receives complaints and brokers solutions, challenges classic conceptions in the military about command structure and unquestioning acceptance. How this Office would fit with existing mechanisms worried others. We have been around long enough now that initial distrust is breaking down.

We have received outstanding contribution and support from the Minister, the Chief of the Defence Staff, and the organization as a whole. We have, unfortunately, experienced strong resistance when making inquiries on behalf of complainants to

the CF Grievance Board. Surprisingly, the Board blames this on a “communications challenge” and the need to be free of ministerial interference. I welcome the current independent Bill C-25 review process, which will hopefully put to rest such spurious arguments.

The Future

The last year has demonstrated how we have made a remarkable contribution, within the limits of our mandate. Still, we are always looking for ways to improve. To date, I have been blessed with strong support from the Ministers I have worked with, and our need to make recommendations free from influence has been respected. Yet, this Office does not have the kind of security of tenure that it should. I therefore intend to take steps to strengthen the independence of this Office. When my mandate was originally being negotiated, DND proposed that the Office of the Ombudsman be given departmental status, and that the Ombudsman be designated a Deputy Head position. These two designations have yet to be finalized. I intend to pursue them, as it would better reflect my operational independence from DND management and the CF chain of command.

There are also gaps in the mandate. For the most part, we are receiving good co-operation from existing dispute settlement mechanisms, but the fact that they are included in the *National Defence Act* and we are not has created jurisdictional issues. From time to time, this disparity threatened to impede our ability to fulfill our mission. In addition, limits on our mandate leave us unable to address problems that go to the heart of our mission, problems that impact on the quality of life of members of the DND/CF community. In my view, when matters of unfairness touch DND/CF members and employees, the unique tools and techniques available to this Office should be at their disposal. I will pursue opportunities to strengthen my mandate, whenever the need is demonstrated and opportunities present themselves.

**Take steps to
strengthen the
independence
of this Office**

The Minister has announced that former Chief Justice Antonio Lamer will conduct the five-year independent review of the amendments to the *National Defence Act*. Those amendments were intended to enhance overall fairness and effectiveness of the military justice system, streamline the CF grievance process, and promote greater accountability and transparency within DND/CF. This Office will be providing the reviewer with its unique objective and independent insight on the issues under review, including military justice and the treatment of grievances within the military.

We will continue to work to accomplish our vision and our mission. We will continue to be impartial. We will follow up on unfinished business and do our best to ensure that all of our recommendations are either implemented, or rendered unnecessary by other positive changes or developments. We will use the tools at our disposal to ensure fair treatment and positive change, so that we can continue to contribute to a healthy DND/CF community.

Taking Stock: Five Years of Cases

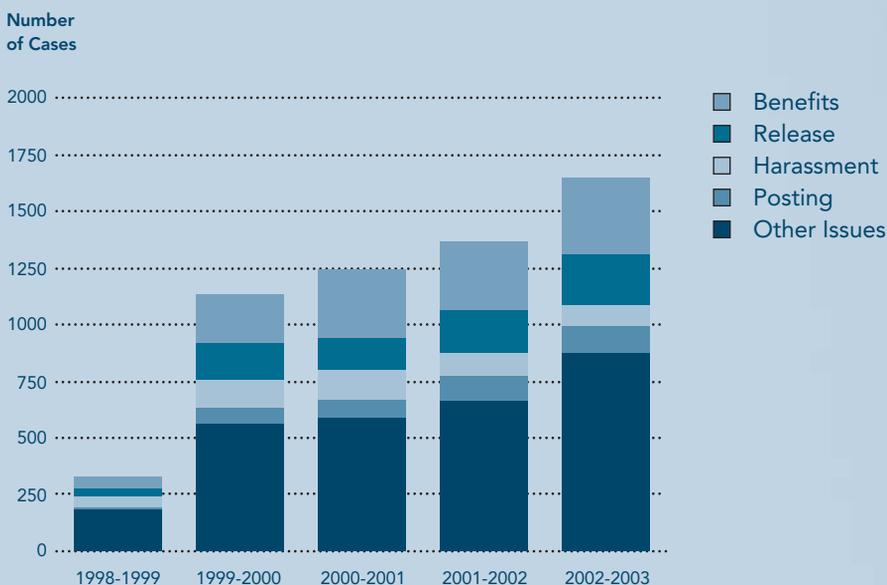
Five years have passed since the appointment of the first Ombudsman for DND/CF. It is time to take stock. This annual report provides an opportunity to look back on the complaints handled by the Office over the past five years and develop a picture of what is improving and what is becoming a concern within the DND/CF community.

The Office collects statistics on the complaints it receives with the help of a confidential case tracking management system. Analyzing this information helps bring trends to light and can provide useful direction for the Office and DND/CF leaders. Appendix I contains statistics from the 2002-2003 fiscal year. What follows are some broad observations drawn from the cases handled by the Office since it opened its doors in June 1998.

Overview of Complaints

The Office has seen a steady rise in complaints of about 10 percent per year, after an initial 350 percent increase following the first year of operations (Graph 1). Investigators also report an increase in the complexity and seriousness of issues brought to the Office. The top categories of complaint have remained consistent over the years. Benefits (such as pay and pensions), harassment, release of members from the CF, and posting of members to a different location continue to generate the most complaints.

Graph 1 – Overview of Complaints



Almost two-thirds of complaints are brought forth by members of the Land Forces, as they comprise a major portion of CF personnel (Graph 2). Air Force members account for approximately one-quarter of the complaints received by the Office, and Navy personnel account for the remaining 14 percent. These proportions have remained consistent over the years.

Graph 2 – Complaints by Element 1998-2003

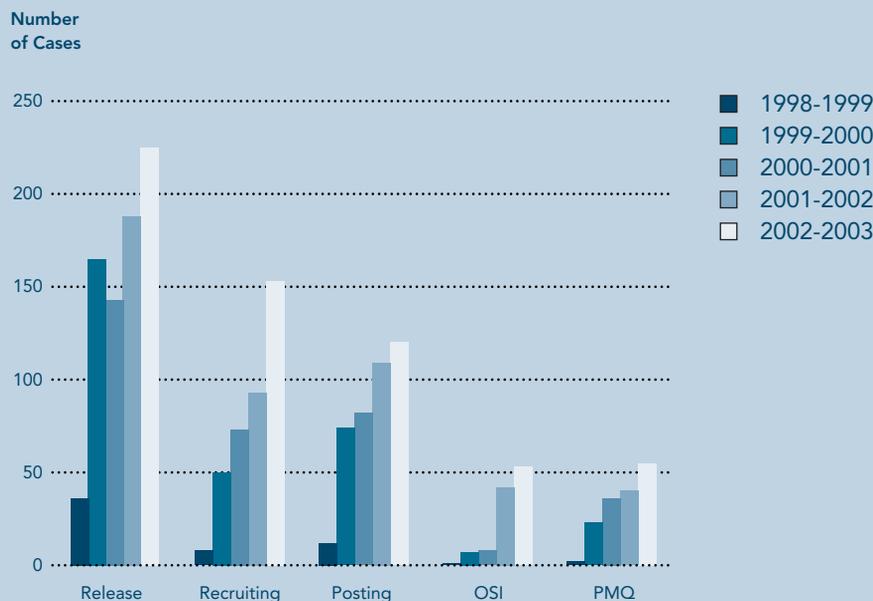


Types of Complaints on the Rise

Of particular concern are several types of complaints that are on the rise (Graph 3). Problems relating to release from the military, one of the top areas of complaint, appear to be increasing. Part of this rise is due to mounting concern about delays in obtaining a voluntary release.

The number of complaints about recruitment issues, such as delays and the unfair rejection of applicants, has increased significantly since September 2001, when individuals applying to become CF members gained the right to access the Office.

Graph 3 – Types of Complaints on the Rise



Posting issues, always an area of concern for a significant number of complainants, also appear to be on the rise. In many of these cases, members contacted the Office because they felt their quality of life would be affected by a posting.

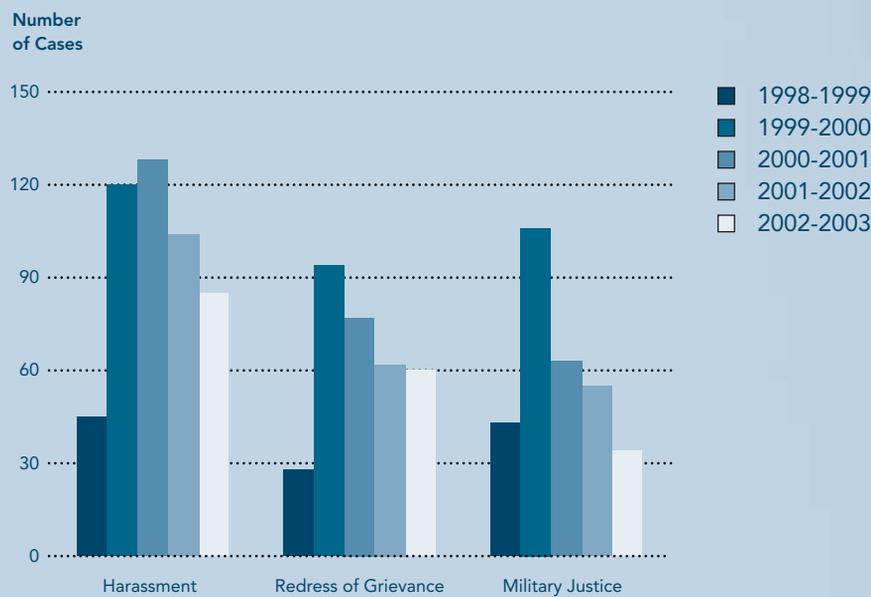
There was also a jump in the number of complaints about OSIs preceding the release of the Ombudsman’s special report on this issue in February 2002. Since then, OSI complaints have continued to rise at a slower pace.

Finally, there appears to be a small but steady rise in complaints about military housing (Private Married Quarters, or PMQs). Many of these complaints revolved around dissatisfaction with housing conditions, rent, and policies.

Types of Complaints on the Decline

While the overall caseload has increased, some types of complaints have diminished over the years. Complaints about harassment, for example, are declining (Graph 4). Complaints about the redress of grievance process, including problems with improper procedures and delays, are also decreasing, as are military justice issues, such as complaints about military police investigations.

Graph 4 – Types of Complaints on the Decline

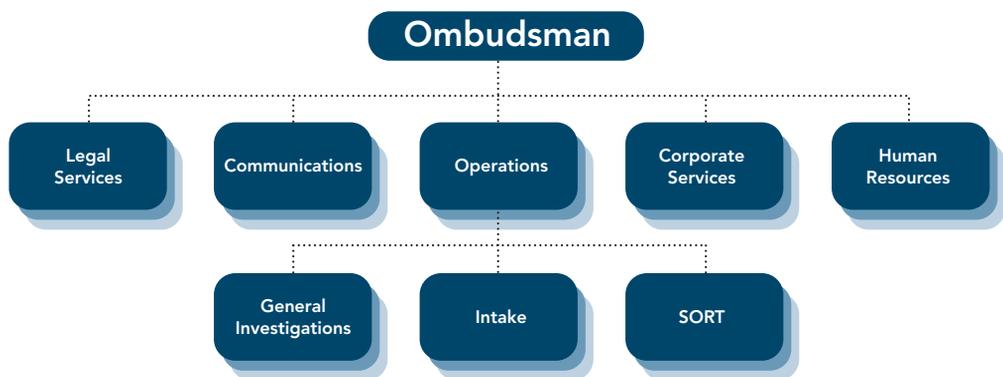


About the Office of the Ombudsman

The Office of the Ombudsman was created in 1998 as part of a larger commitment by the Minister and CF leadership to improve fairness and openness in the CF and to strengthen the effectiveness and transparency of DND/CF oversight mechanisms.

Ombudsman André Marin was appointed on June 9, 1998 for a three-year term. He was then re-appointed for a term of five years, effective June 9, 2001. It is a Governor in Council (Cabinet) appointment pursuant to section 5 of the *National Defence Act*. This section allows Cabinet to designate someone to exercise any power or perform any function that may be exercised by the Minister under the *National Defence Act*.

The Office consists of over 50 dedicated staff members, all of whom are civilians who have sworn an oath of confidentiality. They are divided into the following groups: Legal Services, Communications, Corporate Services, Human Resources, and Operations, which includes Intake, General Investigations, and the Special Ombudsman Response Team (SORT).



The Ombudsman also benefits from the military knowledge and experience of the members of the Ombudsman Advisory Committee. They act as a sounding board for initiatives or recommendations being considered by the Ombudsman. The group does not make decisions on specific complaints therefore the confidentiality of cases is preserved. The committee members are:

- Professor Ed Ratushny, chair
- Major (Retired) Deanna Brasseur
- Lieutenant-General (Retired) Michael Caines
- Lieutenant-Colonel Kevin Cotten
- Captain Sharon Donnelly
- Mr. Thomas Hoppe
- Major-General Keith Penney
- Mr. Grant White

How We Operate

The Operations section encompasses three groups: Intake, General Investigations, and the Special Ombudsman Response Team (SORT). Investigators are assigned to either General Investigations or SORT.

The Office employs five intake officers and sixteen full time investigators. The majority of investigators work in Ottawa, though there are five investigators who telework from major centres close to CF bases across Canada. These investigators are based in Montreal, Winnipeg, Calgary, and Victoria, and there are plans to expand to other parts of the country. The Office recently conducted a review of the effectiveness of its use of regional investigators. This included reviewing statistics and cases concluded in the regions, feedback from members and their families, and input from the investigators themselves. It was determined that these investigators develop local contacts and knowledge of particular regional concerns, and are able to facilitate the resolution of cases more quickly in their area. Telework also reduces travel costs and other expenses related to conducting investigations across Canada.

Intake

Intake staff answer the toll-free telephone line (1-88-88-BUDMAN) and process all incoming complaints. As front line workers, they act as the first point of contact with the Office, listening to callers' concerns and drawing on their extensive knowledge of DND/CF to provide options that will help callers resolve their problems.

General Investigations

General Investigations staff deal with a high volume of complaints by individuals. They specialize in compelling circumstances or hardship cases, informal negotiations, and challenging the leadership and bureaucracy through the investigation of administrative problems. These investigations may result in recommendations for policy changes. Investigators are required to react quickly to solve problems with tact and diplomacy. They find the right information and the right person in order to resolve issues.

Special Ombudsman Response Team

Cases assigned to SORT usually raise broad systemic issues and require resource-intensive investigation. SORT investigations often involve complex and/or disputed facts that require immediate intervention. They are sensitive and highly public issues and result in recommendations from the Ombudsman.

SORT is generally assigned the cases that the Minister has directed the Ombudsman to investigate, or cases that the Ombudsman has decided to probe without the submission of a formal complaint. SORT also continues to work very closely with Brigadier-General (Retired) Joe Sharpe, the Special Advisor to the Ombudsman on Operational Stress Injury and Environmental Issues.

From Our Case Files

This section of the report provides numerous examples of cases that have been tackled this year. The Office completed four major systemic investigations. Two dealt with the issue of OSIs: an extensive review of DND/CF's progress on implementing recommendations about stress injuries made in February 2002, and an investigation into an incident where a parade float mocked soldiers suffering from OSIs. The other major investigations completed this year addressed the clawback of overpayments made in error by DND, and the discriminatory treatment of an aboriginal CF member.

Discriminatory Treatment of an Aboriginal CF Member

FINAL REPORT

A junior non-commissioned member of aboriginal descent contacted the Ombudsman after his exhaustive efforts to be posted back to his own community for compassionate and quality of life reasons failed. The member found himself increasingly unhappy. In the location where he worked, he and his family were not able to access the ethnic, cultural, and spiritual connections to his land and people, which aboriginals consider essential and sacred to the preservation of their heritage. Over the next year and a half, while this member used existing mechanisms for resolution, an investigator maintained close contact with him and kept detailed accounts of the progress of his efforts with his chain of command and the Director of Military Careers (D Mil C).

The member's quality of life posting request was supported by several parties, including his social work officer and a military chaplain. The first year, however, D Mil C denied there were quality of life reasons to support a posting. They told the member he would have to complete a normal posting tour where he was. In the second year, D Mil C acknowledged that the member had sufficient justification for a quality of life posting. However, they decided that the member's request had arrived too late to be considered for that posting season.

An investigator maintained close contact with him

The member complained that despite D Mil C stating there were no positions available for him in his home community, several members of his rank and trade were posted there. During the course of his struggles to have his posting changed, the member became increasingly distressed. He was placed on sick leave and was required to work outside of his trade in a less stress-oriented job for a period of time.

Although the member and his family were ultimately posted back to their home community, the Ombudsman felt that it was important to address any systemic issues raised by the complaint that might affect the aboriginal CF community as a whole.

Investigators interviewed 34 people and reviewed DND/CF regulations and policies affecting postings. They also reviewed the terms of the Canadian Forces Aboriginal

Entry Program (CFAEP) and met with recruits who had recently completed the first run of this program. Investigators asked each recruit to complete a questionnaire designed to gain knowledge and understanding of the views of aboriginal recruits. In particular, investigators were interested in learning what these recruits felt was important for the CF to provide in order to attract and retain aboriginal members.

**The
Ombudsman
felt that it
was important
to address any
systemic issues**

The Ombudsman made 14 recommendations dealing with broad systemic issues affecting recruiting and retention of aboriginal people, as well as the handling of the individual complaint. In response to the Ombudsman's recommendations, two former members of the complainant's chain of command issued written apologies for any harm or distress they caused the complainant. The Assistant Deputy Minister (Human Resources - Military) [ADM (HR-Mil)] also agreed to a posting extension to keep the aboriginal member in his home community until 2007. In addition, he authorized special leave to compensate the complainant for time spent presenting his arguments.

While the ADM (HR-Mil) did not accept all of the recommendations, overall the Ombudsman was satisfied that his response addressed the more important systemic issues raised in his report.

As a result of the Ombudsman's recommendations, the ADM (HR-Mil) agreed to ensure improved cultural diversity education for aboriginal members' career managers and others who make decisions that influence their quality of life. The ADM (HR-Mil) also assured the Ombudsman that when career managers make decisions on posting requests from aboriginal members, they will provide reasons that demonstrate cultural values were fully understood and considered. Additionally, he committed to strengthen relationships with aboriginal communities and to ensure that the CF Recruiting Group works more closely with them.

The ADM (HR-Mil) will ensure that Base Commanders are aware of the benefits of Defence Aboriginal Advisory Groups and encourage them to be proactive in forming such organizations to address concerns specific to aboriginal members working under their command. He also instructed that high priority be given to aboriginal issues within his group and designated Director Military Gender Integration and Employment Equity to track and monitor the promotion, retention, and attrition of CF aboriginal members.

Although the complainant recognized the value of the Ombudsman's systemic recommendations, he felt that stronger corrective actions should have been taken in his particular case.



Unfair Demand to Repay Overpayments Made Under the Forces Reduction Program

**FINAL
REPORT**

The Ombudsman launched an investigation after receiving complaints from four former CF members who retired in 1995 or 1996 under the Forces Reduction Program (FRP), a program created in 1992 to reduce the complement of the CF by encouraging members to take early retirement. The plan continued until the end of the 1997-1998 fiscal year. The complainants stated that they had accepted the terms offered as part of the FRP, including an option to receive payment at a promised rate for all or a portion of their unused leave. After retiring and foregoing their unused leave, they then received a letter from DND dated September 3, 1997, advising them that there had been an administrative error. In the letter, DND admitted that it had failed to adhere to Treasury Board guidelines regarding the formula for payments in lieu of unused leave and demanded reimbursement for the overpayment.

The Ombudsman's investigation focused on the fairness of DND's demand for repayment. The members had relied on the information DND had provided about the amount of pay they would receive for their unused leave in deciding whether or not to take their early retirement. Based on this, the Ombudsman determined that it was unfair of DND to clawback the amount that had been overpaid.

In his report, the Ombudsman acknowledged that DND attempted to rectify its error through a submission to Treasury Board in 1997, but the submission had not been accepted and DND was obliged to demand the return of the overpayment. Despite these initial attempts, the Ombudsman recommended that the current Minister make a further application to Treasury Board to attempt to convince them to approve forgiveness of the overpayment.

**It was unfair
of DND to
clawback the
amount**

In response to the Ombudsman's report, the Minister forwarded the matter to the Chief of the Defence Staff for his consideration. The Chief of the Defence Staff replied to the Ombudsman indicating that he acknowledged and regretted the administrative error that led to the overpayments made under the FRP. He also stated that because the majority of payments were not of a large amount and had in fact already been recovered from members, the CF's actions to clawback the payments were not unreasonable. Finally, he concluded that he could not foresee a repeat submission to Treasury Board, especially in the current fiscal climate.

The Ombudsman has raised with the Minister the important issue of principles that this case entails and is awaiting his response.

Review of DND/CF Actions on Operational Stress Injuries



After the release of the special report *Systemic Treatment of CF Members with PTSD* on February 5, 2002, the Ombudsman committed to issue a follow-up report nine months later. This report would review the progress of the CF on the implementation of the 31 recommendations made in the initial report. True to his word, and nine months to the day, the Ombudsman submitted the report entitled *Review of DND/CF Actions on Operational Stress Injuries* to the Minister. It was released publicly on December 17, 2002.

The original report focused primarily on the Army, as the initial complainant was a member of the infantry. With the follow-up report, a broader approach was taken, and information was gathered from Navy and Air Force members as well.

The extensive investigation determined that the CF has made measurable progress in the implementation of a number of recommendations designed to deal with OSIs since the release of the Ombudsman's original report in February 2002. A significant number of the CF's initiatives on OSIs flow from the report recommendations, as well as from an accelerated implementation of some initiatives that were underway before the report was released.

During this follow-up investigation, it was apparent that the level of awareness of OSIs in the CF has improved markedly. For example, with Rotation 9 and 10 of Op Palladium deployed to Bosnia in 2001 and 2002, changes in the level of psychological support for the battle group were beginning to become evident. The mission in Afghanistan to help combat terrorism provided a good opportunity for the CF to demonstrate a commitment to deal with stress reduction during operations and on redeployment. The decompression time in Guam and the gradual reintegration of members with their families are examples. While the confirmation of the success of those initiatives must await further examination, it is clear that so far the majority of CF members and their families view these actions as very positive.



Ombudsman visits deployed members in Kandahar to see what measures are being taken to deal with OSIs

On another positive note, the Operational Stress Injury Social Support (OSISS) project has been a tremendous success. OSISS has a mandate to provide peer counselling and support for members who may have an OSI. The group also conducts education and training about OSIs for CF members and other relevant groups. Its success is owing not only to the dedication of its staff, but also to the championing it has received from the highest levels of the chain of command, in particular from the ADM (HR-Mil).

On the negative side, the Ombudsman found that very little progress has been made in a number of important areas. For example, in the area of culture change, the all-important peer attitude remains largely negative and resource shortages and high workloads will continue to make it difficult to change attitudes and improve acceptance of members suffering from an OSI. Recent experience indicates that in some locations, this poor attitude toward OSIs is not being handled well by the local chain of command. Members are still reluctant to seek treatment and in some areas, treatment is difficult to access. There has been little tangible progress establishing an Operational Trauma and Stress Support Centre (OTSSC) off base, which the Ombudsman believes is key to encouraging members who are concerned about confidentiality to come forward for treatment.

Overall, there seems to be a renewed determination within the organization to pursue this issue and some tangible changes are evident. However, the difficulty of changing entrenched ideas and ultimately the DND/CF culture will not be accomplished without immediate, constant pressure and support. Brigadier-General (Retired) Joe Sharpe has kindly agreed to continue to serve as Special Advisor on this issue. Accordingly, he will provide the Ombudsman with regular updates and his assessment of the CF's progress in this area. The Ombudsman also intends to report at least annually on the continuing commitment of DND/CF to improve the way it treats members who suffer from OSIs.

**Demonstrate a
commitment to
deal with stress
reduction**

Crazy Train Float Mocks Operational Stress Injury Sufferers



On November 29, 2002, the Office received a particularly disturbing allegation, which represented a gross contradiction of much of the work the CF and the Ombudsman have done to improve the treatment of soldiers with OSIs. It was alleged that during an annual parade and sporting event held by the 2nd Battalion Princess Patricia's Canadian Light Infantry (2 PPCLI) located in Winnipeg, one company built a float entitled "Crazy Train" that mocked soldiers with OSIs.

This allegation was brought to the attention of the Ombudsman on the same day the chain of command received it. In accordance with his mandate, he waited until the chain of command conducted its own investigation. On December 4, 2002, the chain of command concluded that none of the parade floats had targeted members with OSIs or any other group, and that the matter had been blown out of proportion. CF authorities appeared primarily concerned that the allegation had been passed outside of the battalion.

Information supplied to the Office was inconsistent with the chain of command's conclusion. Therefore, the Ombudsman began an investigation into the allegation. After a thorough examination of all the evidence collected by his team of investigators, the Ombudsman concluded that the parade float was indeed intended to depict the mythical Crazy Train openly used by junior members of the battalion as a reference to people with OSIs.

The Ombudsman had pointed out in both his previous reports on OSIs that education in the units is the key to changing cultural attitudes, such as those represented by the Crazy Train float. Consequently, in his report on the Crazy Train incident, he made only one recommendation: that necessary resources be committed and planning be finalized as a matter of the highest priority for the immediate implementation of unit level education about OSIs. As well, the Ombudsman criticized the inadequate internal investigation conducted by the chain of command. In his report, he included a protocol for the CF to follow should it have to conduct this type of investigation in the future.

The Ombudsman forwarded his report, entitled *Off the Rails: Crazy Train Float Mocks Operational Stress Injury Sufferers*, to the Minister on January 22, 2003. He then released it to the public at a press conference in Winnipeg on March 6, 2003. The Ombudsman felt it was important to release the report in Winnipeg, where the incident had occurred, so that the DND/CF community there would receive the report's messages directly.

In response to the report, the Chief of the Defence Staff wrote to the Chiefs of the Army, Navy, and Air Force. He expressed his disappointment in the events and the inherent lack of sensitivity to ethnic, gender, and mental health issues demonstrated by the parade floats. He also directed that immediate action be taken to ensure that a detailed and driven mental health awareness and acceptance program be available at the unit level.

Environmental Exposure

ONGOING

A number of former and serving members, and in some cases their families, complained about how the CF has dealt with members who may have been exposed to environmental hazards during operational tours. The complaints cover a broad range of areas, including:

- treatment by the CF once illnesses become apparent. A number of complainants allege unsympathetic treatment by the CF, including an onus on the member to prove a connection with an environmental hazard;
- failure to investigate possible connections between illness and environmental exposure thoroughly, objectively, and using scientifically appropriate methodology;
- failure to keep proper records, including documenting medical treatments and deployments;
- transfer of information to Veterans Affairs Canada (VAC).

Given the systemic nature of many of the complaints, the Ombudsman has decided to conduct an investigation into these and related issues. The investigation has been assigned to SORT and the Ombudsman's Special Advisor, Brigadier-General (Retired) Joe Sharpe is assisting.

The purpose of the investigation is not to assess causation. For example, the Ombudsman will not attempt to determine whether there is a provable linkage between depleted uranium and the symptoms that some members have shown upon their return to Canada. Rather, the team will investigate the way the CF treats members who are deployed to a theatre of operations fit and healthy but who begin showing symptoms of illness during deployment or soon after their return to Canada. The ultimate purpose of the investigation is to determine whether any improvements could be made in the way DND/CF deals with members who may have been exposed to environmental hazards while on operational duty.

Death of a CF Member During a Training Accident

ONGOING

A major investigation into the circumstances surrounding the tragic death of a CF member during a training accident in April 1992 is underway. The widow of the member contacted the Ombudsman to complain about the way the CF had treated her family in the aftermath of her husband's death.

A retired senior officer also complained to the Office about the same accident. He was concerned with the way he was treated by very senior officers in the chain of command during the internal response to the incident and the way responsibility for the accident was assigned.



The complaints raised systemic issues about how the CF responds to accidental deaths. As a result, the Ombudsman obtained the necessary authorization from the Minister to investigate, since the incident occurred before June 15, 1998. SORT is investigating the circumstances surrounding the death of the member and how the CF handled the incident.

This investigation is challenging, as the events took place a long time ago and there are numerous and complex issues involved. After interviewing more than 75 people and reviewing over 5,000 pages of transcripts, analyzing the CF investigations, and examining CF regulations, the SORT investigation is almost complete. A report in the 2003-2004 fiscal year is expected to answer some of the lingering questions and assist those involved in attaining a sense of closure.

Long Term Disability Benefits for CF Members

ONGOING

The Ombudsman has received numerous complaints relating to the Service Income Security Insurance Plan (SISIP). SISIP is a group insurance plan providing insurance options to members of the CF Regular and Reserve Forces. It is considered a division of the Canadian Forces Personnel Support Agency (CFPSA) and functions as a non public fund organization. SISIP also administers the Long Term Disability plan for CF members, which is supported by the Treasury Board of Canada.

The SISIP Long Term Disability plan provides CF members with replacement income if they become "totally disabled" or if they are released from the CF for medical reasons. The plan states that insured members can expect to receive 75 percent of their salary upon release, less other relevant sources of income. Some complainants

feel that the definition of “total disability” is too restrictive. Others have argued that the reduction of SISIP benefits when members receive “other relevant sources of income” is unfair.

In response to the complaints received by the Office, the Ombudsman directed his investigators to review the SISIP Long Term Disability plan and to compare it to other federal public service disability insurance plans.

The investigation examined the fairness of deductions from SISIP Long Term Disability monthly payments based on other income the member receives. Members were particularly concerned that money they received from VAC for disability pensions was being deducted from their SISIP benefits. It was argued that since serving CF members are entitled to receive their full salary as well as any VAC disability pensions to which they are entitled, it is unfair that those who receive SISIP Long Term Disability benefits should have their monthly benefits reduced when they receive the same VAC pensions. VAC disability pensions are not taxable under the *Income Tax Act*. Entitlement to such disability pensions is based solely on the relationship between military service and a disability. Therefore, members complaining to the Ombudsman argued that VAC disability pensions should not be treated as income by SISIP to determine the amount of Long Term Disability benefits they receive.

The investigation also examined whether CF members are provided with complete information about the coverage and limitations of SISIP Long Term Disability benefits. The investigators determined that many CF members lack information and understanding of these benefits. Either they do not know where to obtain information, or they do not understand the information provided to them. Some believed they had been misinformed about their entitlement to benefits. In many cases, members believed that either the CF or SISIP would take care of their financial needs if they were released from the military for medical reasons. In many instances, after members were injured and released, it quickly became apparent that there was a wide discrepancy between the member’s expectations and the reality of the actual coverage they received. Investigators also noted that SISIP is attempting to better inform members of their benefits should they become disabled.

**The
investigation
examined the
fairness of
deductions**

CF members deserve long-term disability coverage that meets their needs. They must also be well informed about what coverage they actually have under the SISIP Long Term Disability plan. Therefore, any recommendations in this upcoming report will be aimed at assisting DND/CF meet these objectives.

Treatment of Women at Land Forces Western Area Training Centre

UPDATE

As reported last year, the Ombudsman established a team of investigators to deal with alleged gender discrimination at Land Forces Western Area Training Centre in Wainwright, Alberta. A complaint from a former female member of the infantry alleged that she was harassed and discriminated against by male course instructors during her Qualifications Level III infantry training at Wainwright from 1998 to 2000. She also alleged that men and women on the training course were judged by different standards and that women who had to interrupt training because of performance or medical reasons were forced to repeat courses from the beginning, whereas men in the same situation were allowed to rejoin courses where they had left off. In the complainant's opinion, there has been no substantive change to the treatment of women in the infantry and problems are continuing today.

Prior to receiving this complaint, the Ombudsman also received correspondence from the Association for Women's Equity in the Canadian Forces (AWECF). The letter stated that an increasing number of women had been contacting the association with accounts of double standards experienced on infantry training at the centre in Wainwright and unjust assessment processes. The Ombudsman also received correspondence from an instructor at the training centre in response to media articles containing allegations of discrimination against women by instructors at the training centre. He felt that an independent review by an organization such as the Office of the Ombudsman was required, as he believed the media coverage was unfair to staff and had created a false perception of widespread discrimination and harassment at the training centre.

During the investigation, Ombudsman investigators interviewed over 30 witnesses including the complainant, current and former instructors, and students (male and female) who underwent infantry training during the same period as the complainant. They reviewed student files and progress review board reports covering the time the complainant was at the training centre. They also examined DND/CF statistics on the participation of women in the infantry and the participation of male and female students in Qualifications Level III training courses. A report is expected in the 2003-2004 fiscal year.

Treatment of Members Suffering from PTSD at the Halifax OTSSC

UPDATE

As noted in last year's annual report, the Ombudsman initiated an investigation into workplace issues at the Halifax OTSSC that could have an adverse affect on the care available to CF members suffering from PTSD. Swift intervention by the SORT Director and the Ombudsman's Special Advisor ensured that care for patients continued.

The complaint was brought to the attention of the Office by an individual who was not, under the mandate, a member of its constituency. However, as the complaint raised issues directly affecting the welfare of a large number of CF members, the Ombudsman launched an investigation using the "own motion" provision of the mandate. This clause allows the Ombudsman to investigate any matter after notifying the Minister.

Once the immediate issue of patient care was resolved, SORT continued to investigate the systemic issues raised in this case. These include the manner in which third party contractors are integrated into the CF medical system, the way these work arrangements affect CF members seeking medical treatment, and how workplace conflicts are resolved.

Grievance Delays

UPDATE

In this fiscal year, the Office of the Ombudsman received 67 complaints relating to the treatment of grievances. Delays in the adjudication of grievances accounted for 31 of these complaints. One pertained to delays at the Minister's level under the old grievance system. The others were regarding delays in the new system: ten at the Initial Authority level, fourteen at the Chief of the Defence Staff level, and six involving the Canadian Forces Grievance Board (CFGB).

Grievances Awaiting Adjudication by the Minister

Over the past year, the Office has continued to work with staff in the Minister's Office to expedite the adjudication of grievances by the Minister. At the beginning of April 2002, 30 grievances were awaiting adjudication. Many of these grievances had been filed before the streamlined process took effect and had been delayed in the system for two or more years. Under the new streamlined system that came into effect on June 15, 2000, the Chief of the Defence Staff is now the final level of authority to adjudicate on grievances.

Ombudsman investigators worked closely with staff from both the Minister's Office and the Director Canadian Forces Grievance Administration (DCFGA) to address delays and to expedite the adjudication of cases. Their ongoing cooperation is greatly appreciated.

As part of this process, the Minister's Office created a grievance register to track the status of grievances at the Minister's level. It allowed his staff to specifically determine whether the Minister had sent a grievance for further investigation, whether it was being analysed by the DCFGA, or if it was ready for the Minister's adjudication. This encouraged staff to monitor more closely the amount of time being taken to prepare grievances for the Minister's review. The Office of the Ombudsman also received monthly progress reports from the Minister's Office on the status of all cases. Although the complainants who contacted the Ombudsman's Office for updates were frustrated by the delays, the grievance register allowed investigators to address their concerns using the most current information.

In January 2003, the Minister's Office reported that he had adjudicated 27 cases. Three cases were outstanding at the end of March 2003, awaiting further analysis from DCFGA. The Office of the Ombudsman will continue to monitor this issue closely, until the remaining cases have been adjudicated.

**Address
delays and to
expedite the
adjudication
of cases**

Grievances in the Streamlined System

The Office also continued to monitor delays in the handling of redress of grievances (ROG) under the new streamlined redress of grievance system.

In the new grievance system, there are now two levels of review for grievances filed by members. The first level is referred to as the initial authority. The initial authority is the person within the grievor's chain of command or at National Defence Headquarters who has the authority to grant the resolution that is being sought. The second and final level of review is the Chief of the Defence Staff. Under the new grievance system, the CFGB reviews specific grievances and provides its findings and recommendations to the Chief of the Defence Staff.

If the Ombudsman receives a complaint about how a grievance has been handled or about the final decision on a grievance, his role is to review the grievance process to ensure that the grievor has been



treated in a fair and equitable manner. The Ombudsman can review the handling of ROGs at all points in the system. This includes the initial authority level and when the grievance is being reviewed by the CFGB for recommendation to the Chief of the Defence Staff.

If there is a complaint about delays in the handling of grievances, the Ombudsman's investigators act as impartial facilitators to bring the delays to the attention of those working in the system and encourage more expeditious treatment.

According to the streamlined ROG system, grievances should be treated under the following deadlines:

- A grievance must be submitted by a CF member to his or her commanding officer (CO) within six months of the alleged unfair treatment or incident (absent exceptional circumstances).
- A CO has 10 calendar days to pass the grievance to the appropriate initial authority, if he/she does not have the necessary authority to decide on the grievance.
- The initial authority has 60 calendar days to decide on a grievance.
- The initial authority must provide the grievor with the information being used to decide on the grievance during this 60-day period. The grievor has 14 days to provide his or her comments.
- If the grievor does not agree with the initial authority's decision, he or she has 90 calendar days after receiving the decision to submit his or her grievance to the Chief of the Defence Staff.

Complaints about delays at the initial authority level were centred on the 60-day deadline not being respected. If the initial authority believes that more time is required, an extension can be requested. If the grievor does not agree to the request for an extension, the grievance is automatically sent to the Chief of the Defence Staff for a decision.

In cases where initial authorities do not respect deadlines, Ombudsman investigators intervene to locate the complainant's grievance and ensure that the appropriate level of authority is adjudicating it. Investigators are generally successful in working with initial authorities directly to ensure that grievances are reviewed as expeditiously as possible.

At the beginning of the fiscal year, the Office experienced problems with cooperation from CFGB staff regarding complaints about delays at the CFGB. The Office was advised that reluctance to respond to Ombudsman inquiries were due to "privacy considerations." Consequently, the Ombudsman wrote to the Chair of the Grievance Board and he emphasized that the Board's cooperation allows the Office to fulfil its mandate and ensure fair treatment. The Ombudsman assured the Board Chair that the Office receives written consent from complainants to make inquiries on their behalf and that Ombudsman staff will provide a copy of this consent to Board staff.

**Ombudsman's
investigators
act as impartial
facilitators**

Grievances Denied by the Final Authority

The Office also receives complaints from people who have gone through the lengthy grievance process and received a response from the Chief of the Defence Staff or the Minister denying their grievance. This includes cases where the CFGB may have examined the case and made a recommendation to the Chief of the Defence Staff. In some cases, complainants express great frustration about waiting years to receive a response to their grievance, only to find that their complaint has been dismissed with limited reasons. Others feel the real issues they raised were not addressed.

During this fiscal year, the Office received nine complaints where a grievance was denied by the final authority and the complainant asked that a review of the process be undertaken.

The Ombudsman cannot change the final decision on a grievance. He can, however, review the grievance process to ensure that the complaint was dealt with justly. For example, he may examine whether the matter was unfairly delayed, whether the final authority did not have all the relevant information or was misled, or if information was not shared with the grievor. If the Ombudsman finds that the complaint was not treated in a fair and equitable manner, he may recommend that the final authority's procedures be revised. He may also recommend that the final authority reconsider the case. If the Ombudsman receives complaints about a number of grievances dealing with the same issue, he may also decide that a systemic investigation is warranted.



Case Summaries

This section provides a further sampling of the cases handled by the Office this past year.

Long Time Coming

Sometimes it takes a while to get your due, and this case proves just that.

A private was driving to a medical clinic one day to receive treatment for frostbite. While leaving his unit, the private's luck took a further turn for the worse; his car was struck by a military vehicle. Though his injuries were not life threatening, to this day the private suffers from neck and back pain.

After the accident the private tried to obtain a VAC pension, but was repeatedly denied. The reason? VAC deemed him to not have been on duty at the time of the accident since the doctor had not filled out an injury report.

The private came to the Office some nine years later after his attempts to resolve the issue and his ROG failed. The investigator on the case began to dig through years of files and interviewed witnesses of the accident. After gathering the facts that proved the private had been on duty at the time of the accident, the investigator contacted the current CO of the private's old regiment.

Soon after meeting with the CO, the injury report was issued and, to the private's satisfaction, was retroactive to the time of the accident. With this information in hand, the private was finally successful in obtaining his pension.

Special Delivery

Two members, who were expecting twins, ran into some difficulties when they tried to arrange to be posted closer together.

The expecting mother's home unit was in western Canada, while the expecting father was posted in Ontario. He applied for a quality of life posting, as well as parental leave so he could be present when his children were born. Since one of the criteria for a quality of life posting is common-law status, both members filled out the necessary applications to obtain this classification. Her CO was quick to approve the common-

law status request. His CO, however, was not nearly as forthcoming; the member's request was held and the parental leave was denied.

Worried that he would not be present for the birth of his children, the member contacted the Office.

An investigator contacted the father's CO in Ontario.

The CO indicated he would not recognize common-law status until after the babies were born. The investigator also contacted the career manager of the member to ensure that there was a posting available closer to the soon-to-be mother, and the response was optimistic.



Then the issue was discussed with Director Law Human Resources, to establish if indeed it was required for both service members to apply for common-law status. The investigator asked if only one application would be sufficient since it included affidavits from both individuals. The answer was “probably”, but the issue had never been raised before.

In the meantime, the twins were born, and the father’s CO was still hesitant to make a decision. The investigator once again contacted the CO. Finally, faced with all the information the investigator had gathered, he agreed to recognize the common-law status and to process both the quality of life posting and the parental leave. The member left for western Canada shortly thereafter on parental leave for a period of seven months, with a commitment from his career manager that he would be posted with his spouse at the end of the leave period.

Due to the investigation, staff at Director Law Human Resources agreed to review whether two applications are necessary for recognition of common-law status.

Put Your Money Where Your Mouth Is

A member of the CF, looking into purchasing his first home, learned from his base staff that he was eligible for a Crown-paid move. With this information, he decided to go ahead and buy his new home.

Just prior to taking possession, the member was informed by his base that the information he had received about the purchase of the house was incorrect, and that he was in fact not eligible to receive any reimbursements. The base contacted the Director Compensation and Benefits Administration (DCBA), and explained the predicament. They asked that the member be reimbursed for legal fees and disbursements for the purchase of the house, based on the information that was provided to the member by base staff. DCBA remained firm, and stated that he was not eligible for a Crown-paid move under current regulations.

The member then contacted the Office with the hopes that an investigator might be able to help with the situation. The investigator contacted DCBA, and also received the same response: the member was not eligible regardless of what information he had received from his base staff. The investigator persisted and the case was finally forwarded to another DCBA staff member. After reviewing the documentation, DCBA agreed that the member should in fact be reimbursed for the move. In the past, DND has stated that members should not have to suffer as a result of poor administration or bad advice. DCBA directed the base to reimburse the member for his legal fees, disbursements, and house inspection costs.

This decision brought relief to the member and also to the staff on the base, who felt that not reimbursing the member was unfair.

Back on Track

A number of years ago, a senior officer in the CF helped during a plane crash retrieval operation in Halifax. Though the crew's actions were very brave, the incident had a negative psychological effect on many of those who had helped, including the officer. The officer felt like he had fallen off the radar and had nowhere to go.

The officer approached VAC in the hopes of obtaining a disability pension. A member of VAC staff then brought the situation to the attention of an OSISS representative out of concern for the officer's mental health. At this point, the OSISS representative contacted an investigator at the Office.

The investigator began facilitating discussions with DND/CF staff regarding the release of the officer and monetary compensation given the circumstances surrounding the case. With the help of a number of DND/CF staff, the investigator was successful in obtaining the Reserve Force Retirement Gratuity and a disability compensation package.

The former senior officer is now receiving proper medical attention. He is also in contact with the OSISS representative in the city where he resides, and is receiving a disability pension through VAC. All of this, along with the support he received from the three organizations, has helped the former officer put his life back together.

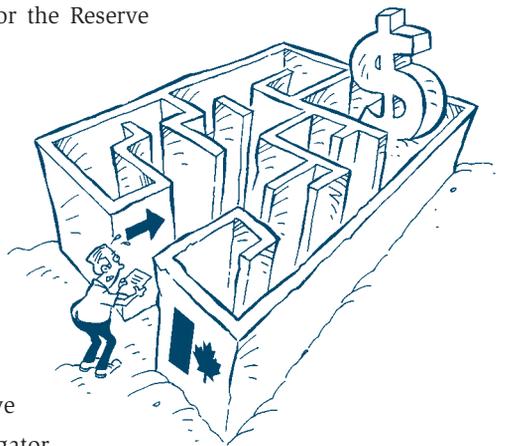
A Twist of Fate

After almost 30 years of dedicated service to the CF, a senior Reserve officer was told that, as a result of restructuring, his position had become redundant, and that no alternative position was available. The Reserve officer thought that it was personal dislike rather than restructuring that fueled this sudden move. But rather than grieving or objecting, he resigned with less than two years remaining before his compulsory retirement date.

Years later, the former Reserve officer still felt angry and betrayed. That is when he came to the Office. He told the investigator that he felt he was unfairly forced to retire. He suggested that the timing of his position redundancy was a mere couple of months before the introduction of a new severance package. He saw this as a move to ensure that he would not be eligible for the Reserve Force Retirement Gratuity.

Since the triggering incident in this case occurred before the creation of the Office, the Minister's authorization was obtained to go forward with the investigation. It soon became clear that looking into the case was going to be difficult – time had passed, and people had moved on.

But the case suddenly took an unexpected twist during an initial review of the former Reserve officer's military personnel file. The investigator noticed that the date of release seemed to be two years later than when he said he had retired.



Many phone calls later, it turned out that there had been a lengthy delay in finalizing the release paperwork, and the former Reserve officer's official date of release was actually 1998, not 1996 when he had left his job! This discovery raised an interesting question: did the delay mean that the complainant was officially still a member of the Forces when the retirement gratuity came into effect, and was he, as a result, eligible for it? The answer was yes. In the end, he received a retirement gratuity of \$35,000.

Though the former Reserve officer was somewhat disappointed that the circumstances of his release could not be completely addressed, it was some consolation that his situation prompted review of other files and led to the discovery of similar cases of delayed releases. Those former members were undoubtedly pleased to receive severance payments they had not expected.

Countdown

A member of the Regular Force contacted the Office after her attempts at obtaining a speedy release from the Forces were unsuccessful. Her husband was being deployed to Bosnia and she thought it would be best if she stayed at home with their one-year-old daughter while he was away. She submitted a request to be released within 30 days, and did not hear anything for seven weeks. When she spoke with the career manager, she found out that a release had in fact been recommended, so the reason for the delay was unclear.

At the point when she contacted the Office, she was worried that she would not be released in time for her husband's departure. When the investigator assigned to the case contacted the career manager's supervisor, it was determined that the 30-day release had indeed been approved.

Apparently, the problem was that the Director Military Careers and Resource Management had not yet granted the release, and this approval was necessary before she would be allowed to leave. The investigator reminded the career manager of the urgency of the situation, since the member's husband was to be deployed shortly. She was released soon thereafter, just days before her husband was set to depart.

A Matter of Pride

A member was being medically released after being diagnosed with PTSD as a result of heroic measures she engaged in as part of her duty. Despite her injuries in a helicopter crash during peacekeeping service, the member was instrumental in saving the lives of others aboard the helicopter. For these outstanding actions, she received the Medal of Bravery.

Because of her dedication to the Forces, the member felt justified in asking for a short delay in her release so that she could achieve a significant personal milestone – twenty years of service. Though there were no additional financial or other benefits associated with reaching this milestone, the member still wanted to complete the next few months. Her request was denied.

Subsequently, the circumstances surrounding the release were brought to the Office by both the member's caregiver and a senior non-commissioned member of the CF,

with an appeal for help. In the opinion of the member's caregiver, the sense of pride and accomplishment gained by completing twenty years of service was an important psychological concern.

The member appealed several times, as did the caregiver and other serving members in the chain of command. The CF administration, interpreting the regulations in accordance with existing policy, stood firm and ruled that the release date would not be changed. They were concerned that a precedent would be set and many others would begin requesting extensions to release dates for less valid reasons.

The Office was able, with the help of the caregiver and the senior non-commissioned member, to bring this case to the attention of the ADM (HR-Mil). He quickly recognized the importance of this request and directed that the extension of service be granted.

The Other Side of the Coin

On occasion, the Office has to make tough decisions about which issues to pursue. This is an example of just that.

In this case, a representative of a citizen's group approached the Office. The group, which included former CF members, was formed to lobby against the closure of the ski facilities at Canadian Forces Base Valcartier and the sale of the equipment. The group's argument was that despite the fact that the facility also provided recreation to civilians, it was beneficial to the DND/CF community as a whole and should not be closed.

The group submitted a business plan after the closing was announced. The plan included a market analysis and a proposal to continue operating the facilities. The Commander of Land Force Quebec Area reviewed the plan but upheld the decision to close the centre based on budgetary restrictions and costs incurred for operational maintenance.

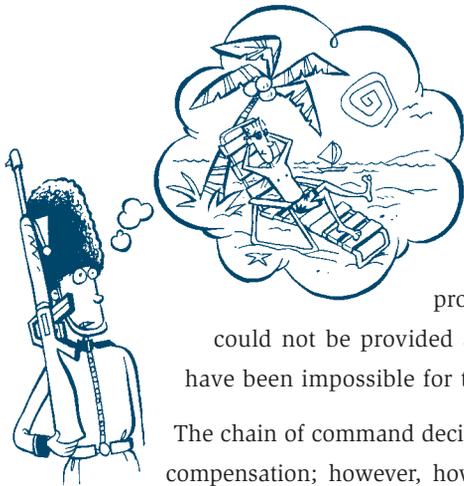
The support of the Office was then requested to halt the closure of the facility as well as the sale of the equipment. The group wanted an investigation to be conducted into the reasons for the closure and the rejection of their business plan.

A review of the information provided to the Office by the citizen's group ensued. Though sympathetic to the citizen's concerns, the many challenges facing the CF, such as human and fiscal resources, had to be taken into account. As a result, the request for an investigation was declined.

On Guard!

During a period of personnel shortages over the summer, members of the Ceremonial Guard were expected to work extra hours and were unable to take their usual vacation time. Though this put a damper on some summer plans, the members agreed to it since they were told that they would be paid for the extra work performed.

The complaint came to the Office when, as time went on, the members did not receive their promised payments, and were also unable to receive any answers through the usual chain of command as to the cause of the delay.



The investigator contacted the Brigade Headquarters to see where the problem lay. The delay, according to Brigade Headquarters, was because overtime payments were not authorized. As a result, the members should have been provided with time off. However, since leave could not be provided after the summer training period, it would have been impossible for time off to be granted.

The chain of command decided that the members deserved some sort of compensation; however, how to calculate the amount of money owed became a new administrative nightmare. To make matters worse, there seemed to be some confusion as to who was supposed to be making these calculations.

Shortly thereafter, the investigator received word that the issue had been resolved, and that the compensation was finally paid.

Getting the Job Done

After having been diagnosed with an operational stress injury, a corporal was transferred outside his combat arms unit to new duties. Although the member had developed the skills required for his new duties, his chain of command informed him the current regulations did not allow him to stay on, and so he was to be medically released.

The corporal contacted the Office asking whether his release could be postponed despite having an injury that limits the performance of some military duties. The member was in the final three years of his contract, and wanted to be accommodated long enough for him to reach his 20-year mark of service. The investigator contacted the chain of command in the member's unit. They confirmed that he was doing an outstanding job, and that they did indeed require his services, as they were currently understaffed. However, they reiterated that, under current regulations, they could not continue to retain him.

Convinced of the merits of this complaint, the investigator contacted a senior officer within ADM (HR-Mil). After discussing the case with him, the senior officer suggested that a resolution might be possible and committed to get back to the investigator within weeks.

As promised, two weeks later, the senior officer contacted the investigator. The investigator was informed that the regulations, although under review, would take some time to work through due to the many complex resource implications. The official then stated that he agreed with the fundamental merits of this case, and that a resolution had been brokered among several CF leaders that would allow the corporal to serve out the three years remaining on his contract.

The resolution meant that the short-staffed military section got to keep a person who was making a valuable contribution to the unit, and the soldier can now reach his goal of completing 20 years of service.

Fuelling the Fire

During a long career in the Forces, this retired member successfully completed firefighting certification at five different levels. Since his retirement, he had begun to look for employment in this field, but was running into some problems. It seemed that he did not have all the seals that were supposed to have come along with each level he had completed. Without this proof of completion, he was not going to be able to find employment.

The clincher came when he contacted the Academy where he had taken the courses, and was informed that he would have to pay a significant replacement fee in order to get the seals. The member was outraged. It made no sense to him that he would have to pay to replace something he had never received.

After exhaustive efforts, the former member contacted the Office in the hopes of getting the seals without having to pay the replacement fee, so that he could finally get employment in his field.

The investigator in charge of the case contacted the Canadian Forces Firefighting Academy to verify the serial numbers of the missing seals. Unfortunately, though they could verify that the seals had been created, they could not prove whether they had been sent, or to whom they had been sent.

Since the Academy could not prove that they had sent the seals to the member, the investigator was able to persuade them to reissue the seals at no cost. As well, this event prompted the Academy to put into place a method to ensure that members receive their seals and to prevent this problem from arising in the future.

It's Driving Us Batty!

These CF members, though usually quite fond of animals, found living with a slew of unwanted flying rodents less than appealing.

They visited the Office in the summer regarding a “pest” problem they were having in their Private Married Quarters (PMQ). It seems they had some housemates in the form of bats. These bats took house in the attic, but managed to leave their droppings all over the PMQ. The members had tried to resolve their problem with the Canadian Forces Housing Agency (CFHA), but to no avail.

The investigator assigned to the case contacted the CFHA, and was successful in getting someone to the PMQ to remove the bats, and prevent them from coming in again – or so it seemed.

Despite these measures, the persistent bats found another way into the quarters. The investigator called the CFHA again to report that the pest problem had in fact not been resolved. This time, the CFHA sent over both their Chief Inspector and a contractor to finally put an end to the issue.

The result? The bats were banished from the PMQ with no way back in, much to the members' satisfaction.



Playing the Waiting Game

A young lieutenant, who had failed his initial pilot training, was serving out his obligatory service period. With his release date approaching, the lieutenant secured civilian employment to coincide with when he would be released. Shortly before his release date, he was informed that a period of parental leave he had taken while serving was going to be added to the end of his contract. This extension policy would require him to work another year. The lieutenant was very frustrated, since the only reason he had joined the forces was to be a pilot. Since that dream had not become a reality, he had spent the last five years doing menial jobs, all the while looking forward to his new life as a civilian. This unfortunate turn of events put the lieutenant's new job and plans to move in jeopardy.

The lieutenant contacted the Office requesting help in securing an early release, stating he was even willing to reimburse the parental leave salary. The investigator began a search of the personnel file, and a review of the correspondence relating to the parental leave issue, and found that most personnel within the chain of command were unaware of the extension policy. It was therefore understandable that the lieutenant would not have known about the regulation. The investigator then set up a meeting with the Director Military Careers (D Mil C) to discuss the issue. They maintained their position and asserted that they did not want to set a precedent for other officers in the same situation to also get an early release. However, after discussing the impact that this decision would have on the member and his family, D Mil C agreed to review the situation, provided they received evidence from social and medical experts stating that the situation had a harmful effect on the member's health and his family. At this request, the lieutenant obtained the necessary reports and forwarded them on to D Mil C.

After a review of the documents, D Mil C personnel recommended that once the parental leave salary was reimbursed, the officer would be released seven months before the new release date.

Clearing the Air

Several parents of cadets contacted the Office to voice concerns about how their children's cadet squadron was being managed. They were unhappy about how their complaints on a variety of issues, ranging from poor communication to harassment, had been handled.

Faced with this broad array of complaints involving several different parties, the investigator decided the best course of action would be to sit everyone down together to discuss the problems and identify some solutions. He therefore conducted a series of consultations with parents, squadron staff, members of the provincial cadet league, and representatives of the regional detachment office.

Once all the issues were on the table, the investigator incorporated the suggestions generated in these meetings into a list of corrective actions. These, he hoped, would

help the cadet movement improve its ability to identify and respond to concerns that arise when working with parents and other stakeholders. The list included suggestions to review the Cadet Harassment and Prevention Program, clarify how sensitive information about cadets should be handled, provide better guidance on access to information, improve parental access to published cadet rules and policies and clarify the role and expectations of parents of cadets.

The corrective actions received the support of the concerned parents, as well as the cadet squadron advisory committee and the regional detachment office representatives. They have also been accepted and are currently being implemented by the squadron, the detachment, and the Director of Cadets.

As a result, the Office is now working with the Director of Cadets on a joint project to help cadet instructors respond effectively to concerns raised by parents. As an element of the project, the Office is reviewing complaints received from parents of cadets. The information gathered through this process will be used to generate several generic case studies that will be incorporated into the training program for cadet instructors. It will aid the trainees in identifying and responding effectively to similar situations before they become full blown conflicts.

Things Aren't Always as They Seem

A former corporal, released for medical reasons in 1996, alleged that he was permanently disabled as a result of ill-fitting military footwear, on-duty injuries, and inadequate medical care. With severe chronic back pain, he is unable to work and has difficulty engaging in virtually any physical activity. As a result, his quality of life has substantially diminished.

The former corporal's allegation was against the CF medical staff. He believed that had his injuries been identified in a timely manner, and had he received the proper care to treat them, his condition would not have deteriorated as it had.

Because this case originated prior to the creation of the Office, the Minister's authorization was obtained before an investigation began. Then it was determined that an objective assessment of the corporal's back condition and medical care was needed to establish evidence for his claim. Since this sort of expertise is not available within the Office, the investigator took the unusual step of contracting an independent medical expert. An orthopaedic surgeon examined the corporal and, with his agreement, reviewed his medical records.

Following the examination, the orthopaedic surgeon found no physical basis for the corporal's back condition. In his opinion, the former corporal had received adequate and proper medical treatment throughout his military career.

While the surgeon acknowledged that psychiatry was outside his field of expertise, he presented the possibility that the former corporal's condition might be a psychiatric problem manifesting itself as chronic back pain. Psychiatric testing confirmed that former corporal did have PTSD, and he is now receiving proper treatment. He is also receiving disability benefits and a pension from VAC.

The investigative procedure in this case was somewhat unusual. Normally, a complainant provides information to establish the possibility of unfair treatment. The corporal in this case had no evidence that he had been poorly served by CF medical staff. He had drawn this conclusion based on his condition. Because of the gravity of his situation and the serious career and personal consequences involved, independent medical expertise was required to assess the care he received while a member of the CF.

In the end, it was concluded that, although his situation was very unfortunate, there was no evidence that the corporal's medical care as a CF member was lacking in any way. At the same time, the Office's intervention ensured that he received the medical care and financial benefits he was entitled to.

Oops...Third Time Lucky

Last year's annual report, described the case of a former master corporal who was twice reimbursed for Mortgage Default Insurance (MDI) on the home he bought when he was transferred. He was then twice informed that an error had been made and he would have to repay the money he had received. The final result of the investigation was that he was partially reimbursed for the MDI and the case was closed. Or so he thought.

Wasn't he surprised when, several months later, he received a pension cheque with an unexplained deduction of over \$100. Having no idea what the deduction was for, he called the number on the back of the cheque, which put him in touch with Public Works and Government Services Canada. He was informed by Public Works that they had been instructed to take a total of \$290 from his pension in installments. They told him they did not know the reason for the clawback, but they would try to find out. In the meantime, there was little that could be done.

The former master corporal contacted the investigator who had dealt with his last case. She learned from a helpful master seaman at the Director Accounts Processing, Pay and Pensions that the pension deductions were to cover the interest on the portion of the MDI fees he still owed. The investigator asked if, given the circumstances, the interest could be written off. The investigator started to explain the complicated background of the situation, but then decided the easiest way to do it was to just send a copy of last year's annual report over.

A half-hour later, the investigator received a call. The master seaman's superior had been consulted and they had decided to write off the interest. The former master corporal, once again, received a reimbursement.



Ah, Nuts!

A private with three years of service was notified that he was facing a possible medical release from the Forces because of a food allergy. The problem? Brazil nuts. It seemed that this allergy was deemed serious enough that he could not serve.

Needless to say, the private was not happy with this possibility and appealed it. Leaving the Forces would have a profound impact on his life, and it seemed unnecessary to take such extreme actions for a low-risk allergy.

After not receiving any information about his appeal for over two months, the private came to the Office. The investigator contacted Director Medical Policy (D Med Pol), and learned that the appeal had been submitted to Director Military Careers and Resource Management (DMCARM). The private's allergy had been assessed, and DMCARM determined that it was indeed low risk. After extensive consultation with both D Med Pol and DMCARM, it was decided that the private would be retained in the Forces, with the condition that he carry his epinephrine medication with him at all times.

This set the precedent for similar cases. It is now required that members have their condition assessed to determine the risk level of the allergy and whether continued employment can be granted in spite of it.

Moving On

A corporal came to the Office alleging that her supervisor and unit members were harassing her. She was so overwhelmed by this negative atmosphere at work, and the lack of support from the chain of command, that she had taken stress leave, and was seeing a psychologist.

It was thought to be in the best interest of the corporal if she moved out of her current work environment, so she was asking for the Office's assistance in obtaining a contingency cost move (CCM). The investigator began the process by contacting the member's career manager. The career manager suggested that to facilitate a CCM, the member should submit a harassment complaint. The corporal felt that this was not the right route to take, since she believed the complaint would not be taken seriously by the chain of command. The investigator then began to explore other options. He contacted the corporal's CO, and suggested a meeting be set up in order to negotiate a transfer. Both the corporal and the CO requested the assistance of the Dispute Resolution Centre for this negotiation.

A settlement was reached two months later. The corporal obtained a transfer to another department within her base, and was pleased to be back at work after months of being on stress leave. She thanked everyone involved for working so hard on her behalf and helping her obtain a transfer.

From Ship to Shore

After recently being separated from her husband while he was deployed in Afghanistan, this member found out that now she was going to be sent overseas. This was a great source of stress for the member since her husband was posted to a ship, and she was on a base with her two small children. The member didn't know what to do since she and her husband had no family residing close by that could care for their children while she was gone. In the face of this dilemma, her husband was even considering leaving the CF after more than 15 years of service. The member decided that before such a drastic move was made, she would contact the Office to see if they could help with the problem. It was a good thing she did.

After talking to an intake officer as well as an investigator, it was discovered that a trade similar to her husband's was available on her base. Elated, the member's husband applied for a transfer to this position, and it was approved. The member, grateful for all the work of the Office, can now focus on her overseas mission, knowing the kids are safe at home with their father.

Ahoy!

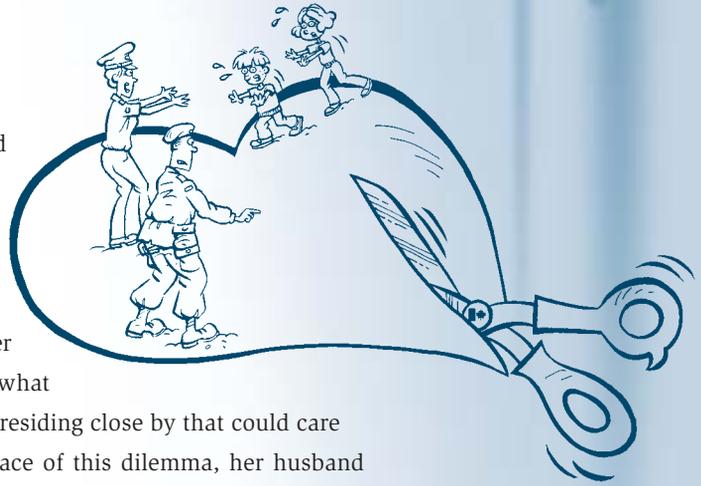
Suffering from PTSD, a retired member was encouraged to take up a hobby to help in his therapy process. The former member decided it was an opportune time to renew his interest in sailing, and decided to retrain in the maintenance of sailboats. During discussions with other injured former members, he heard about a program, the Personal Enhancement Program (PEP), that provides grants to retired members for retraining. Former members have up to a year after they leave the Forces to complete as many courses as they can, as long as they do not exceed the limit of \$5,000.

Upon hearing of this, the former member applied to the program, but was turned down because it was past the one-year time limit. This seemed unfair to him, since he had previously been unaware of the existence of the program, and could not have participated in it since he was in therapy during that year.

The investigator contacted the Director Training and Education (DTEP). The investigator explained the member's medical situation and suggested that, in situations such as these, extensions should be allowed. The DTEP representative agreed, and recommended that the member submit this request, along with a letter from his treating physician, through the Personnel Selection Officer at the closest CF base. The request would then be sent to DTEP for approval.

The DTEP representative confirmed that this situation did in fact meet the definition of "extenuating circumstances", which, according to the policy, would warrant an extension.

The former member was pleased with DTEP's decision, and has already registered in a marine maintenance program.





A Matter of Significant Interest

From time to time the Office receives complaints from constituents who have received retroactive payments, usually to correct errors in salary or benefits. Sometimes the amounts in question are substantial and they are often paid years after the original mistake was made. The complainants in these cases request that they be awarded interest on these payments.

- One case this year concerned a CF member who was paid at the wrong rate for three years, ending in 1996. In 2000, she discovered the error and grieved. A year later she was paid almost \$14,000, but without the interest she requested.
- In another case, a Reserve Force Retirement Gratuity cheque of almost \$40,000 took an unreasonable 14 months to arrive in the retired member's hands. Again, no interest was payable.
- In a third case, a former member was paid just over \$77,000 for a medical pension that was retroactive more than twenty-five years. His request for interest was also refused.

The general rule is that no interest is payable by the federal government unless there is a contract, a statute or a legal judgment that specifically provides that interest must be paid. Some departments pay interest according to statute. For example, Canada Customs and Revenue Agency pays interest on payments made under the *Income Tax Act*. As well, certain bodies, such as the Canadian Human Rights Tribunal, are empowered to award interest when they order compensation on a substantiated complaint and they deem interest appropriate. However, for DND employees and CF members, as for public servants generally, there is no statute or contract providing that interest be paid on money owed by their employer. DND is therefore legally justified in not paying interest when it pays retroactive salary or benefits to its members and employees.

Complainants in these cases perceive this as unfair. They argue that if they are not paid interest, the CF's errors and unreasonable delays have not been completely redressed. In other words, they are deprived of the whole value of the money owed and suffer a permanent loss because of the CF's delay or mistake.

It is easy to appreciate why complainants may feel badly in these situations. However, the Ombudsman does not have the power to order DND to pay interest on these amounts. He will monitor cases the Office receives concerning the payment of interest and will consider, on a case-by-case basis, whether recommending compensation in some other form is appropriate.

Ombudsman's Commendations

Four CF members were honoured by the Ombudsman when commendations for Ethics and Complaint Resolution were presented on March 28, 2003. The ceremony was held in the main concourse at National Defence Headquarters. The Chief of the Defence Staff, General Henault, and other senior leaders joined the Ombudsman in recognizing the recipients for their contribution to the well-being of fellow CF members.

Commander Barry Saladana, Commanding Officer Regional Cadet Support Unit, and Captain Beverley Ennis, Regional Cadet Human Rights Advisor, received the Ombudsman's Commendation for Complaint Resolution. This award is given to recognize individuals or groups of individuals in the DND/CF community who demonstrate exceptional problem-solving and complaint resolution skills.

Commander Saladana and Captain Ennis received the award for their contribution to the successful resolution of several cases involving difficult and protracted disputes. They regularly make the extra effort to meet with cadets and their parents to resolve problems, even under tense and difficult conditions. As a team, they have taken the initiative to move beyond resolving the immediate issue by setting a precedent to ensure that similar problems are avoided.

Commodore James Sylvester, recently appointed Director General Maritime Personnel and Readiness, and Lieutenant(N) Edward Swayze, HMCS *Griffon's* Chaplain, each received the Ombudsman's Commendation for Ethics. This award is given to recognize individuals or groups of individuals in the DND/CF community who bring pride to the institution by their demonstration of exemplary ethics.

Commodore Sylvester successfully integrates ethics into the workplace. In his dealings with staff, he typically goes beyond the letter of the law to do what is fair and what is right. He bases his decisions on ethical grounds and encourages staff and peers to do the same.

Lieutenant(N) Swayze fully embodies and encourages DND/CF ethical values and conduct. He is an invaluable counsellor to all members of his community, using his exceptional listening skills and moral leadership to help many deal positively and constructively with difficult situations.



*Award recipients (left to right):
Lieutenant(N) Edward Swayze,
Commodore James Sylvester,
Captain Beverley Ennis, and
Commander Barry Saladana.*

Good to Hear from You: Feedback

Thank you for the information shared on the news today regarding stress in the military. You do indeed speak the truth in regards to the soldiers and stress education. As well, I believe that your Office is doing a fine job of informing the CF of its obligations with regards to caring for its members. I look forward to your continued support of our soldiers.

– CF member

The Office of the Ombudsman is an invaluable ... resource for CF members to seek assistance ... The exemplary efforts of [the investigator] served extremely well both your Office and myself in this effort. Thank you very, very much for all the assistance your Office has provided.

– CF member

Once again, I would like to say thank you, I believe you have renewed faith in my fiancée, she was quite impressed by the fact that [the investigator] called. I know she appreciates it as well as my family, that someone has taken the time to actually do something about my situation. All too often people fall through the cracks, and the stress of my injury and the pain it caused stretched well beyond just me...as my family and fiancée suffered more then anyone could imagine...[the investigator] calling meant the world to them.

– CF member

The report on PTSD... clearly depicts the current state of our human resources in the Canadian Forces. As a senior officer in the CF who has served on several missions in Europe and with the United Nations, I can certainly testify to this. Keep up the excellent work.

– CF member

In the end, with the assistance of [the investigator], there was a CF policy change that allowed my wife, and presumably many others with the same medical condition, to be enrolled into the CF. Once again thank you to [the investigator] and the Ombudsman's Office for the professionalism and devotion shown to both myself and my wife.

– CF member

I cannot express my gratitude for the manner in which [the investigator] conducted her investigation. Her focus and objective, relevant interviewing technique were well received and impressed my witnesses. This situation was an emotional one for me, but she was most considerate in keeping me informed of her progress and, as a consequence, in a balanced state of mind.... Your Office is well served indeed. Her integrity and dedication are second to none.

– *CF member*

Many times I was so frustrated with the bureaucracy, yet [the investigator] always knew what to say and do to help me see things clearer.

– *Former CF member*

Hopefully ... the efforts of the current DND Ombudsman, whom I admire for his courage in dealing with this issue, will convince DND policy makers that much must be done to treat all disabled soldiers – physical and psychological – in a respectful and responsible manner.

– *Former CF member*

I always expect the truth to be told and the information he provides to be accurate.

– *Former CF member*

We were so impressed with the Ombudsman's report. They did such extensive research. He knows his stuff, and I believe him.... He has no hidden agenda. He just wants to help the soldiers.

– *Family member*

Appendix I: Caseload Statistics

The Office continues to improve its case tracking management system in order to provide more detailed and useful statistics to its constituents and the public. The statistics below represent the Office's caseload from April 1, 2002 to March 31, 2003.

This year, the Office has added several important features to the system. Members of the Intake staff can now input case information directly into the system when communicating with complainants and mailroom staff can electronically log and track incoming complaints. The enhanced system also improves searching techniques and the ability to run different types of statistical reports. This allows staff to better monitor trends in complaints and research potential systemic issues.

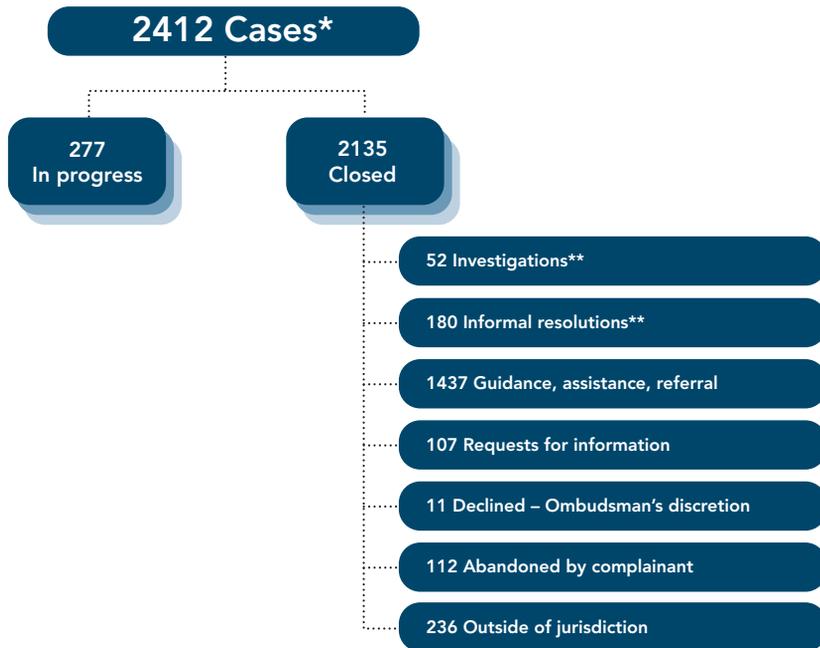
The next step will bring the investigators online, so they can use the system to manage the progress of individual investigations. Further design improvements are envisioned that would allow SORT to coordinate larger investigations of systemic issues that affect multiple complainants. In keeping with the federal government's focus on providing services online, the Office is also assessing the possibility for members of the DND/CF community to file complaints through the Ombudsman's Website.

Types of Complaints

Benefits	336
Release	225
Recruiting	153
Posting	120
Harassment	91
Redress of Grievance	67
Private Married Quarters	55
Medical	55
Operational Stress Injuries	53
Abuse of Power	45
Military Justice	38
Promotions	38
Discrimination	36
Training	34
Contracts	28
Leave	27
Personnel Evaluation Report	22
Awards/Medals	20
Civilian Grievance	17
Deployment Issues	17
Access to Information/Privacy	15
Taxation	7
Disciplinary Action	6
Dismissal	6
Sexual Assault	5
Assault	4
Conflict of Interest	3
Obligatory Service	3
Gender Integration	2
Wrongful Death	2
Appeal Process	1
Croatia	1
Demotions	1
Safety	1
Travel	1
*Other	111
Total	1646

* Includes complaints such as private business issues, international relations, etc. that do not fall into any of the established categories, as well as complaints that are too general to categorize.

Case Outcome



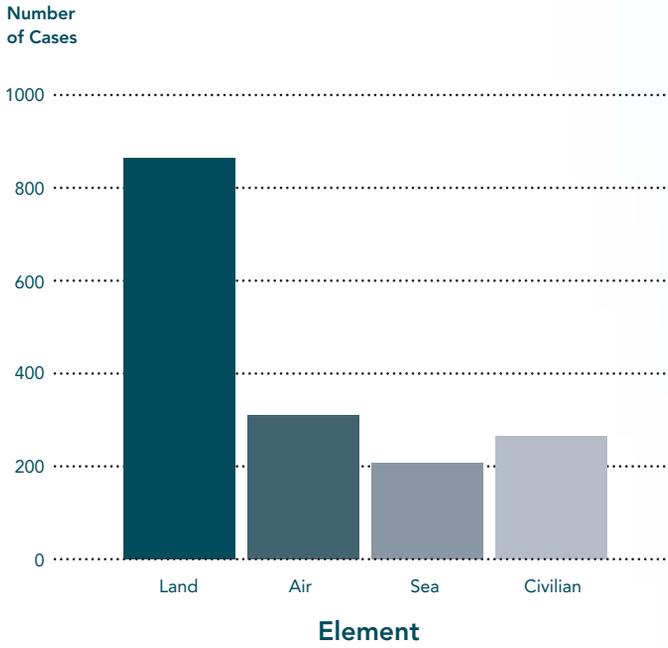
* Includes: cases received or re-opened in 2002-2003, and cases carried over from a previous year.

** Combined, these categories consist of 204 fully or partially substantiated cases and 28 unsubstantiated cases.

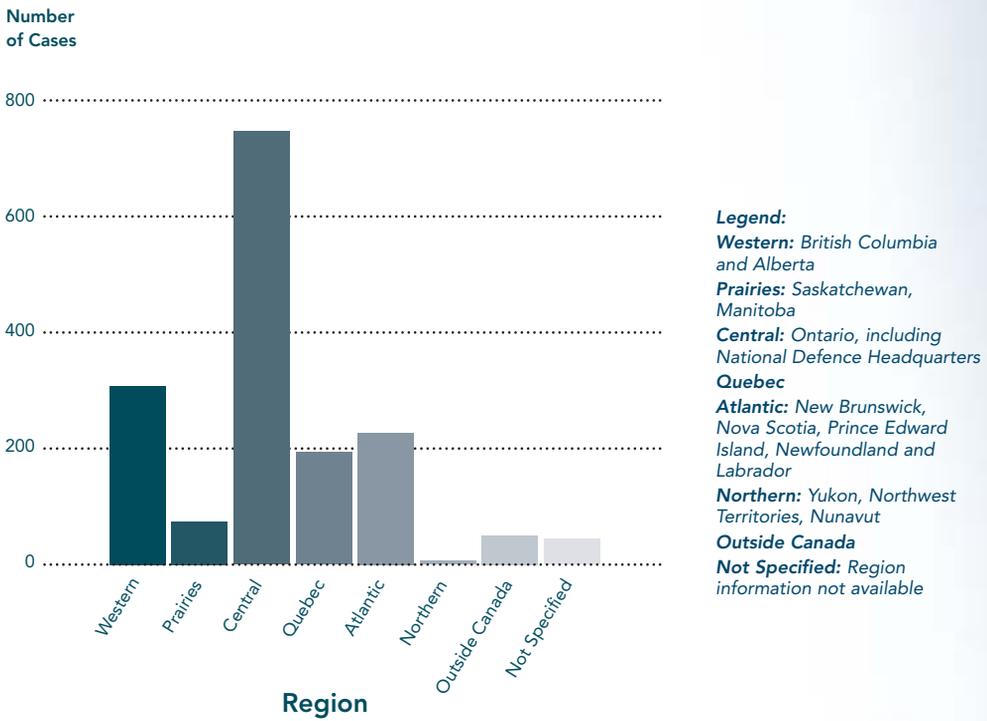
Complainant Category

Regular Force	831
Former CF Member	298
Reserve Force	192
Family Member	99
Non-constituent	88
DND Employee	54
CF Applicant	36
Anonymous	24
Former DND Employee	12
Cadet	9
Non Public Fund Employee	3
Total	1646

Complaints by Element



Complaints by Region



Appendix II: Summary of Expenditures

During the fiscal year 2002-2003, the total budget for the Office was \$5.6 million. Actual expenditures were \$5.2 million. The largest category of expenditures is salaries at \$3.1 million, which accounts for over 60 percent of our total expenditures.

The Minister of National Defence approved the Ombudsman's budget.

Summary of Expenditures

	(\$000)
Salaries	\$3,126
Professional and special services	715
Office rent	347
Transportation	265
Acquisition of computers and other equipment	256
Telecommunications	159
Communication & public outreach	151
Materials and supplies	82
Training and professional dues	40
Courier services	30
Office furniture	24
Miscellaneous	3
Total	\$5,198

These expenditures are prior to year-end adjustments.