

MILITARY POLICE
COMPLAINTS
COMMISSION



COMMISSION D'EXAMEN
DES PLAINTES CONCERNANT
LA POLICE MILITAIRE

The background features a large, semi-transparent globe with a white spiral graphic that starts from the center and expands outwards. The globe is set against a background of horizontal bands in shades of blue and tan. A vertical line runs down the right side of the globe, and a horizontal bar is positioned across the middle of the globe.

ANNUAL REPORT – 2000

PROFESSIONALISM

INTEGRITY

INDEPENDENCE

MISSION

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

VISION

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

VALUES

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

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



COMMISSION D'EXAMEN
DES PLAINTES CONCERNANT
LA POLICE MILITAIRE

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

March 31, 2001

The Honourable Art Eggleton, C.P., M.P.
Minister of National Defence
National Defence Headquarters
MGen George R. Pearkes Building
Ottawa, Ontario
K1A 0K2

Dear Minister:

In accordance with the provisions of section 250.17(1) of the *National Defence Act*, it is my honour to submit the year 2000 Annual Report of the Military Police Complaints Commission for tabling in Parliament.

This is the Commission's first Annual Report covering a complete calendar year of activity. As the Commission was established on December 1, 1999, the previous report covered a period of only one month of activity.

Yours truly,

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

Louise Cobetto
Chairperson



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MESSAGE FROM THE CHAIRPERSON

On or before March 31 of each year, the Chairperson must submit, to the Minister, the Commission's report on activities for the preceding calendar year as well as its recommendations, if any. The Military Police Complaints Commission was established on December 1, 1999. For this reason, its first annual report was limited to activities conducted in December 1999 only. I am therefore very pleased to present the first report covering a full year's activities.

The Commission is a civilian oversight authority. It was established to render the handling of complaints involving the military police more transparent and accessible and to ensure that both complainants and members of the military police are dealt with impartially and fairly. Therefore, when the Commission examines a complaint, it does not favour either the complainant or the military police member; its main concern being to objectively seek out the facts. Professionalism, integrity and independence are values highly regarded by the Commission.

At the conclusion of this first full year of activity, my entire team and I can look back on the past 12 months with a well-earned sense of satisfaction. On December 1, 1999, after three months of intensive preparation, the Commission was already operational, albeit in offices that fell



short of meeting its needs and with a minimum of staff, some having come from temporary employment agencies.

Building a new organization from a base of legislative text is a significant challenge in itself, but constructing an entire organization and its administrative components while conducting day-to-day business is, in many respects,

a true achievement.

As the Commission is a civilian oversight body, independent of the Department of National Defence and the Canadian Forces, it did not begin operating with an in-depth knowledge of military matters. It was necessary to become versed in military culture, to understand the structure and organization of the military police, to equip ourselves with the key policy, directives and procedures manuals and to decipher the acronyms that abound in military police reports. In this respect, I thank the personnel from the office of the Canadian Forces Provost Marshal for their unconditional and steadfast support.

While the Commission was getting organized and establishing its systems and methods, it was already responding to queries from the public, receiving reports from the Canadian Forces Provost Marshal and addressing complaints. The Commission did not hold public hearings in 2000, but it did exercise its jurisdiction in the monitoring

of the Canadian Forces Provost Marshal's handling of conduct complaints, in investigating an interference complaint and in the conduct of an investigation by the Commission in the public interest. To this end, the system of ethics applicable to members of the military police was tested, and it must be said that the Commission carried out its responsibilities honourably.

Concurrently, during the year, I increased the number of visits to military bases and military police units, giving speeches to a number of groups representing the military police and Canadian Forces, in general, whom I thank for their efforts in offering and organizing these visits and meetings. These occasions allowed me to be better informed of the concerns and expectations of those in the military milieu, to ease their apprehensions and to help foster a favourable image of the Commission.

Thus, the year 2000 was enormously demanding for the Chairperson and her team members, who were often called upon to adapt to a most challenging work schedule. However, the results obtained aptly reflect the collective commitment and efforts contributed. The Commission succeeded in filling virtually all of the positions in its organization with competent individuals. We moved into newly renovated, modern and functional accommodations and acquired equally modern and efficient equipment, all of which has contributed to the establishment of a work environment that is both pleasant and

stimulating. Operationally, the Commission gained practical experience in all areas of activity related to its mandate, allowing us to look to the future with confidence.

Even though the Commission has noted or has been advised, from time to time, of situations that have attracted our attention and which might eventually be examined more closely, this report contains no recommendations. Given the still limited experience of the Commission, it would be premature to put forward recommendations based on observations that have yet to be sufficiently validated through time and experience. Moreover, this report provides an ideal opportunity to explain, in greater detail, the characteristics of the system regulating the professional conduct of military police members, the process for handling complaints and the role and powers of the Commission as a major stakeholder in the system, particularly as the Annual Report will eventually be available on the Commission's future internet website.

Louise Cobetto
Chairperson
Military Police Complaints Commission

MILITARY POLICE COMPLAINTS COMMISSION

BACKGROUND

On two occasions, in 1980 and 1992, the Supreme Court of Canada confirmed the need for a distinct, parallel system of justice responding to the requirements of military discipline.

In 1997, the Special Advisory Group on Military Justice and Investigation Services, chaired by the late Right Honourable Brian Dickson, former Chief Justice of the Supreme Court of Canada, issued two successive reports. The first assessed the Code of Service Discipline in light of its fundamental purpose, while the second responded to a request by the former Minister of Defence concerning the quasi-judicial role of the Minister under the terms of the Code of Service Discipline.

Also in 1997, the Commission of Inquiry into the Deployment of Canadian Forces to Somalia, chaired by the Honourable Justice Gilles Létourneau, submitted its report to Parliament.

In response to recommendations in the report submitted by the Minister of National Defence to the Prime Minister in 1997, and equally in response to the reports referred to above, the Minister introduced legislation in the House of Commons to substantially modify the *National Defence Act*, hereafter referred to as the *Act*.

The need to separate, on an institutional basis, the system's investigative, defence, prosecutorial and judicial functions was recognized. In addition, there was a requirement to clarify the roles and responsibilities of the principal players in the military justice system as well as the charge laying functions of the military police and the authorities of police units. All of these factors highlighted the need for an independent, external oversight agency

leading to the establishment of the Military Police Complaints Commission.

SUMMARY OF MANDATE

The Military Police Complaints Commission, hereafter referred to as the Commission, is the first civilian oversight body which is external to, autonomous and independent of, the Department of National Defence and the Canadian Forces. The Commission carries out quasi-judicial functions pursuant to the powers conferred by the *National Defence Act*. This *Act* includes several provisions allowing the Commission exclusive jurisdiction to closely monitor the way in which conduct complaints are dealt with by the Canadian Forces Provost Marshal, hereafter referred to as the Provost Marshal. A complainant, who is not satisfied with the handling of a complaint by the Provost Marshal, may ask that the Commission review the complaint. The Commission has sole responsibility for dealing with complaints of interference in military police investigations.

In the public interest, the Commission Chairperson may remove a conduct complaint from the jurisdiction of the Provost Marshal, request that the Commission investigate, and, if warranted, hold a hearing into a conduct complaint or an interference complaint.

The Commission has no decision-making authority. It formulates recommendations that may result in the censuring of the personal conduct of those who are the subject of the complaints, but these recommendations are intended first and foremost to rectify the situations leading to complaints in order to prevent their recurrence.

The mandate of the Commission is fulfilled by rendering the handling of complaints concerning the military police more transparent and accessible.

THE COMMISSION AS AN ORGANIZATION

The Military Police Complaints Commission was created by amendment, in 1998, to the *National Defence Act*. It became operational on December 1, 1999.

The Commission consists of not more than seven (7) members, including the Chairperson, appointed by the Governor in Council. The Chairperson performs her functions on a full-time basis and has been assisted since the establishment of the Commission by two part-time members.

Military personnel and civilian employees of the Department of National Defence are not eligible to be members of the Commission. The Commission may consist of one or more members assigned by the Chairperson, including herself. Members so designated are deemed to constitute the Commission.

The Chairperson may make rules respecting the manner of dealing with matters and business before the Commission, including the conduct of investigations and hearings; the distribution of work among Commission members; and the performance of the duties and functions of the Commission.

In relation to the complaint before it, the Commission has the power to summon witnesses, to compel them to testify under oath and to produce evidence, to administer oaths, and to receive and accept evidence.

ORGANIZATIONAL STRUCTURE

With the exception of the Chairperson's office, Commission activities are grouped into administrative units. An Executive Director assists the Chairperson with the administrative functions of the organization.

Operations Branch

The Operations Branch is responsible for all activities related to complaints, most notably:

- to provide assistance to complainants;
- to follow-up on complaints;
- to conduct investigations;
- to liaise with the office of the Provost Marshal;
- to maintain a complaint information management system; and
- to advise the Chairperson and the Commission on all issues concerning policing policies and procedures.

Legal Services

The principal responsibility of Legal Services consists of the conduct of studies and research, as requested by the Chairperson, and the provision of legal support to the other administrative units. This unit also assumes the following responsibilities:

- to assist the Commission in conducting its investigations and hearings;
- to contribute to the preparation of Commission reports and documents, having to do with the legal aspects;
- to establish and maintain, together with the Canadian Forces Grievance Board, a functional library responding to the needs of both organizations.

The Chairperson has delegated to the Legal Counsel all the responsibilities vested in her, as the Head of the Commission, by the *Access to Information* and *Privacy Acts*.

The Legal Counsel is in charge of this Unit and reports directly to the Chairperson.

Corporate and Support Services

Corporate and Support Services are comprised of the following functions: Finance, Human Resources, Administration, Communications, and Information and Technology Management.

Corporate services include the financial, administrative and human resources services. This unit is the responsibility of a manager who reports to the Executive Director.

The Communications function includes, among others, media relations management, information product development (most notably the creation of a Web site), the drafting of press releases and speeches. This unit comes under the responsibility of a manager who reports to the Executive Director.

The Information and Technology Management function includes developing information and technology strategies and tools (notably the Web site), acquiring IT goods and services, managing access to the local network and the Defence Wide Area Network (DWAN), responding to user needs, and updating the Commission's systems. This unit is headed by a manager who reports to the Executive Director.

The Commission organization chart is included as Annex A.

BUDGET

Funds for 1999-2000 and 2000-2001 were allocated in the Department of National Defence budget, but the Commission was able to exercise discretion over the control of expenses. The amount allocated for the 2000-2001 fiscal year is \$5,029K (20% EBP included). However, according to the *Act*, the Commission must function independently from the Department of National Defence, which requires parliamentary appropriation and the allocation of funds and reference levels for 2001-2002 and beyond.

The Treasury Board transferred reference levels from the Department of National Defence to the Commission, in the amount of \$4,010K (20% EBP included) for the 2001-2002 fiscal year and future fiscal years of the Commission.

The preceding budget data was established in accordance with the fiscal year. In order to reconcile this data with the calendar year reporting period of the Commission, a more detailed table is included as Annex B.

THE SYSTEM OF ETHICS APPLICABLE TO THE MILITARY POLICE

MILITARY POLICE WORKFORCE

The system of ethics applicable to the military police affects approximately 1,200 police members, 100 of whom form the Canadian Forces National Investigation Service, deployed mainly in Canada but also abroad.

Normally, members of the Canadian Forces National Investigation Service conduct investigations into serious criminal or military offences as well as so-called sensitive investigations, meaning those involving a senior officer or a civilian employee of the Department of National Defence filling an equivalent senior position. Investigations of offences committed involving certain property (e.g. computer equipment) are also treated as sensitive.

Military police hold the status of peace officers and have jurisdiction over all persons subject to the Code of Service Discipline throughout Canada and abroad wherever the Canadian Forces are stationed or deployed. They also have jurisdiction over all persons on or in Department of National Defence property. Military bases are becoming increasingly open to the general public. Therefore, those who move about the bases are subject to military police intervention just as civilian police would intervene in their areas of jurisdiction.

TWO TYPES OF COMPLAINT

Two types of complaint determine the way in which military police complaints are handled: Conduct Complaints and Interference Complaints.

Conduct Complaint

Any person, including members of the military police, the Canadian Forces or Department of National Defence civilian personnel, whether affected by the complaint subject-matter or not, may make a complaint about the conduct of the military police in the performance of any policing duties or functions prescribed in regulations set out by the Governor in Council.

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

The “*Complaints About the Conduct of Members of the Military Police Regulations*” of the Governor in Council are included in Annex C.

Interference Complaint

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

FILING OF COMPLAINTS

Time limit

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

The Commission has no jurisdiction over complaints involving an incident that occurred

prior to December 1, 1999, the date the Commission was established. The *Act* contains a provision to this effect. These complaints, received during the year 2000, were handled by the Provost Marshal according to the internal procedures in place before December 1, 1999.

Notwithstanding the above, should it be deemed necessary, the Commission may examine events that occurred prior to December 1, 1999, in order to better understand circumstances surrounding more recent events.

Submission

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

Follow-up

The complainant receives an acknowledgement of receipt of their complaint and the subject of the complaint is advised of its content. Following this, both are periodically advised of the progress of the case until it is resolved.

Withdrawal

A complainant who wishes to withdraw a complaint may do so by sending written notice to the Chairperson.

The Chairperson may choose to conduct an investigation, despite a complaint being withdrawn.

CANADIAN FORCES PROVOST MARSHAL, A KEY PLAYER IN THE SYSTEM

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

The Deputy Provost Marshal, Professional Standards, is responsible for inspecting and verifying all military police functions, investigating breaches in professional standards and managing the process for dealing with complaints from the public. Therefore, when the Provost Marshal is mentioned in this document, reference is generally being made to the Deputy Provost Marshal, Professional Standards.

If a complaint received from a member of the general public involves the conduct of the military police in the performance of duties as prescribed in regulations of the Governor in Council, it will be handled according to the provisions of Part IV of the *Act* and is subject to the jurisdiction of the Commission.

All other complaints, meaning those involving events prior to December 1, 1999 or conduct occurring outside the performance of policing duties or functions, are handled according to the internal procedures of the Provost Marshal. The Commission has no right of oversight over these complaints.

HANDLING OF A CONDUCT COMPLAINT

With the exception of particular cases where the Chairperson may intervene in the public interest, the Provost Marshal is responsible for handling the initial stages of conduct complaints.

Informal Resolution

Upon receiving a conduct complaint, the Provost Marshal acknowledges receipt to the complainant, advises the military police member who is the subject of the complaint of its substance and advises the Commission Chairperson. If the complaint is deemed eligible, the Provost Marshal may attempt to resolve it informally after obtaining the consent of the parties involved. The Chairperson believes the Provost Marshal should, to the greatest extent possible, encourage the informal resolution of complaints. However, certain categories of complaints, as set out in regulations of the Governor in Council, cannot be resolved informally. These regulations are included at Annex C.

Investigation

Failing an informal resolution, the Provost Marshal may decide to investigate, end an investigation in progress or refuse to conduct an investigation for one of the reasons outlined in the *Act*, most notably if the complaint is frivolous, vexatious or made in bad faith.

Should an investigation be conducted, the Provost Marshal sends the complainant, the military police member who is the subject of the complaint and the Chairperson a report containing the following:

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

The Provost Marshal opens and maintains a file of all complaints received and, upon request, sends all information contained in the file to the Commission. This provision of the *Act*, among others, allows the Commission to perform its monitoring role.

Review

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

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

After reviewing the complaint, the Chairperson may find that the Provost Marshal handled the complaint in a suitable manner. Similarly, the Chairperson may be satisfied with the investigation conducted by the Provost Marshal but may disagree with the conclusions reached. In this case, the Chairperson may make her own recommendations.

Should the Chairperson not be satisfied with the investigation conducted by the Provost Marshal, she may conduct her own investigation. If she arrives at conclusions which differ from those of the Provost Marshal, she will propose her own recommendations.

HANDLING OF AN INTERFERENCE COMPLAINT

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

The Chairperson may refuse to conduct an investigation or may end an investigation already underway for any of the reasons outlined in the *Act*, most notably if the complaint is frivolous, vexatious or made in bad faith. Decisions made by the Chairperson to refuse to conduct an investigation are final.

It should also be noted that in the *Act* the legislator expressly acknowledged the right of members of the military police to make an interference complaint about a superior officer. Therefore, in order for this right to be freely and fully exercised, it is crucial that military police members be both encouraged to do so and supported in their stand as regards superior officers in situations of interference.

Military police members should not feel vulnerable after reporting an interference case. They should not have to fear that their performance evaluations, employment, promotional opportunities or future assignments are in jeopardy. They must feel that they are protected from any possible acts of retaliation.

The Chairperson understands that military police members may hesitate to submit an interference complaint about a superior and also recognizes that the *Act* provides her with no specific authority to intervene following inappropriate behaviour on the part of officers. Nevertheless, the Chairperson wishes to assure the military police of her support, as required, in their efforts to rectify a situation. Further, she intends to soon give consideration to possible measures providing some form of protection

to military police members, while discouraging reprisals by senior officers.

SPECIAL POWER OF THE CHAIRPERSON

According to the provisions contained in section 250.38(1) of the *Act*, should she consider it advisable in the public interest, the Chairperson may, at any point in the handling of a conduct or interference complaint, cause the Commission to conduct an investigation and, where circumstances warrant, hold a public hearing into a complaint.

The decision of the Chairperson to conduct an investigation or hold a hearing on a conduct complaint suspends the handling of the complaint by the Provost Marshal.

Any disciplinary or criminal proceeding before a court or tribunal of first instance that relates to the same conduct that is the subject of a complaint, prompts the suspension of all public hearings of the Commission until the proceedings are completed.

REPORTS

Requests for review and investigations by the Commission all conclude with the publication of two reports; the Interim Report and the Final Report.

Interim Report

The interim report is the first of the two reports. It states the Chairperson's findings and recommendations, or those of the Commission in cases where a hearing has been held.

The interim report is generally sent to the Minister, the Judge Advocate General and the Provost Marshal, as well as to the Chief of the Defence Staff or Deputy Minister, if the person who is the subject of the complaint is a member of the military or a senior departmental official, respectively.

Depending on whether the complaint concerns conduct or interference, the interim report is generally reviewed by the Chief of the Defence Staff or the Provost Marshal, unless they themselves are subjects of the complaint.

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

Final Report

After considering the notice received from the person who reviewed the interim report, the Chairperson prepares the final report stating her findings and recommendations.

The Chairperson is not bound by the content of the notice. However, she considers this a most important step in the process, as it allows her to obtain the opinion of experts in military issues. This provision of the *Act* should reassure members of the military police who have, on many occasions, expressed their reservations about the extent to which Commission personnel understand military culture and practices.

The final report is sent to:

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

The complaint handling process chart is included as Annex D.

REVIEW OF ACTIVITIES – 2000

COMMISSION ORGANIZATION

After three months of intensive preparation, the Commission began work on December 1, 1999. At the time, there was only a minimum of staff and equipment with which to operate. The year 2000 drew heavily on our personnel to organize the Commission effectively.

One of the most laborious, but necessary, tasks was to determine the personnel required, define the organization's structure, plan the floor space required for the offices and identify the equipment needed. This exercise consisted of analysing the progression of a complaint and identifying every possible step involved, the interventions by personnel into each of these steps and the amount of time allocated by each person. The average time calculated was then multiplied by the number of complaints estimated on an annual basis. This number was arrived at by basing ourselves on the percentage of complaints normally received in various Canadian police forces of a given size. The data available from the Provost Marshal for the past two years was also taken into account.

To validate the estimated resource needs of the Commission, a comparative analysis was conducted using the needs of a similar organization: the Commission for Public Complaints Against the RCMP, chaired by Shirley Heafey. The Chairperson wishes to take this opportunity to sincerely thank Ms. Heafey and her team for their invaluable assistance during the establishing of the Commission.

During the 2000 business year, most positions were filled on a contractual basis or on secondment for a period of at least one year, including that

of Director of Operations, who replaced a police ethics specialist whose services had been engaged on a temporary basis.

In order to reduce overall administration costs, the Commission had reached a verbal agreement with the Canadian Human Rights Commission for financial and human resources services. For reasons beyond the Commission's control, this agreement never materialized. Instead, these services have been provided since June 2000, and will continue to be provided until March 31, 2001, by the Passport Office. Discussions took place in the fall of 2000 with the Canadian Forces Grievance Board for the purpose of having them provide the Commission with Financial and Human Resources services, for which they would be remunerated, effective April 2001. For our part, the Commission would furnish informatics services to the Grievance Board.

In June 2000, due to lack of space, the Commission moved its Ottawa offices from 66 Slater Street to 270 Albert Street, 10th floor. For reasons of economy, from the beginning of 2000 the Commission has had an agreement with the Canadian Forces Grievance Board, whose offices are on the 11th floor of the same building, to share certain facilities: the library, the server room, the hearing and conference room and two small meeting rooms. The Grievance Board shares the costs of fittings, rent, furniture and equipment for the areas common to both organizations.

Commission personnel put a great deal of effort into making the new offices functional and harmonious, specifically the acquisition of furniture, computers and general equipment as well as in developing the management and security systems.

REQUESTS FOR INFORMATION

Whether by telephone, mail or e-mail, the Commission has received numerous requests from military personnel, military police and the general public for information on the Commission itself, how to submit a complaint, complaint eligibility or simply to voice their concerns.

The quality of client services is a constant priority of the Chairperson. Commission personnel have been made aware of the necessity to handle every request kindly and courteously and to treat those in difficulty with understanding. To this end, training sessions have been provided to employees, and the subject is on the agenda at staff meetings regularly.

Information provided by the staff is generally complemented by sending out a complaint form and background information to the person making the query. If the request does not fall within the Commission's jurisdiction, employees will still assist the person to address their concern to the applicable agency. Some people have taken the trouble to write to the Chairperson in order to express their satisfaction with the manner in which Commission personnel have helped them.

COMPLAINTS

Between January 1 and December 31, 2000, the Commission opened 83 various complaint files:

- 55 conduct complaints, as per section 250.18(1) of the *Act*;
- 1 interference complaint, as per section 250.19(1) of the *Act*;
- 20 complaints falling outside of the jurisdiction of the Commission, either because the events surrounding the complaint occurred prior to December 1, 1999, or because the actions under scrutiny were not made in the performance of policing duties or functions;

- 7 other files were opened following discussions with complainants who indicated that they intended to eventually submit a formal complaint.

Complaints not falling within the jurisdiction of the Commission prompted the transmission of an information kit to the complainants. According to the wishes of complainants, their documents were either returned to them or forwarded to the Provost Marshal or other appropriate agency.

Withdrawal of a Complaint

The Commission received two (2) requests from complainants to withdraw conduct complaints that had been submitted to the Provost Marshal.

Requests for Review

The Commission received two (2) requests for a review from complainants dissatisfied with the way in which the Provost Marshal handled their complaints.

In the first case, the complainant wondered why the investigator had not verified certain details mentioned in her complaint. The Chairperson felt that the Provost Marshal was best able to respond to the complainant's questions. The request for review was therefore referred to the Provost Marshal and the complainant advised to contact the Commission again if she was not satisfied with the response received from the Provost Marshal. Incidentally, the Provost Marshal's subsequent response was satisfactory to both the complainant and the Chairperson. The details in question had indeed been verified, but the Provost Marshal had not felt it necessary to make reference to this in the investigation summary sent to the complainant.

The second request for review, received in December 2000, is currently being examined.

Investigation of an Interference Complaint

In March 2000, the Commission received an interference complaint from a member of the military police about an officer who hampered his investigation. A Commission investigator was immediately asked by the Chairperson to verify the facts involved in the case.

On March 30, 2000, the Commission suspended its investigation to allow the Canadian Forces National Investigation Service to proceed with an investigation it was conducting into the potentially criminal aspect of the complaint.

As of December 31, 2000, the investigations of the Canadian Forces National Investigation Service and the Commission were completed. The Chairperson was preparing her interim report to be sent to the Minister, the Chief of the Defence Staff, the Judge Advocate General and the Provost Marshal.

Investigation in the Public Interest

The Chairperson used the special power entrusted to her by virtue of section 250.38(1) of the *Act* to investigate two conduct complaints submitted in June 2000. The facts involved in these complaints were as follows:

- At a press conference held on May 30, 2000, the Canadian Forces National Investigation Service made public the results of an investigation it conducted following allegations that members of ex-Warrant Officer Matthew Stopford's troop had added naphtha gas to his coffee during his deployment in Croatia in 1993.
- At a press conference held on June 1, 2000, the Chief of the Defence Staff announced the establishment of a Special Review Group (SRG), chaired by Brigadier-General Gordon (Joe) Sharpe, to examine the Canadian Forces National Investigation Service report and other relevant materials and to make recommendations regarding leadership issues and administrative measures to be taken with respect to the members of the military involved.
- At a press conference held on June 20, 2000, the SRG made public the conclusions it had reached. It stated its disagreement with the reasons given by the Canadian Forces National Investigation Service for not laying charges and said it was "difficult to avoid the conclusion that the Chief of the Defence Staff received (from the Canadian Forces National Investigation Service) inadequate and misleading advice with regard

to the laying of criminal charges." The SRG report went on to state that the Chief of the Defence Staff misled the Canadian public about the possibility of criminal charges being laid by repeating the "inadequate and misleading advice of the Canadian Forces National Investigation Service" at the press conference of June 1, 2000.

- Categorically rejecting any notion that the Canadian Forces National Investigation Service misled the Chief of the Defence staff or the Canadian Public, the Provost Marshal wrote to the Commission Chairperson the same day to request that the Commission investigate these allegations.
- On June 29, 2000, ex-Warrant Officer Matthew Stopford submitted a related complaint.

The Chairperson decided that it was in the public interest for the Commission to hold a joint investigation into the two complaints. For the purposes of this investigation, the Chairperson and Mr. Thomas G. Flanagan S.C., part-time member, constituted the Commission.

As of December 31, 2000, the Commission's investigation had been completed and the Chairperson had submitted her interim report. The Chief of the Defence Staff had, in accordance with the *Act*, sent his notice of action to the Minister and the Chairperson, and the latter was in the process of preparing her final report in order to submit it at the beginning of January 2001.

OVERSIGHT OF THE CANADIAN FORCES PROVOST MARSHAL'S COMPLAINT HANDLING PROCESS

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

At the end of this first year of activity, the Chairperson can make the general observation that the majority of allegations of misconduct that led to formal complaints were not of a highly serious nature. Nevertheless, the Provost Marshal put a great deal of effort into handling all conduct complaints (55), regardless of the nature of the complaint or the seriousness of its allegations. At least two complaints could have been refused as soon as they were received due to their frivolous nature. In another case, an investigation was conducted despite the refusal of the complainant to cooperate with the investigator from the office of the Deputy Provost Marshal, Professional Standards. The investigation resulted in the conclusion that the police officer named in the complaint did not act in a professional manner.

In addition, as required by the *Act*, periodic updates on the progression of complaints were produced and forwarded, within the specified time limits, from the Deputy Provost Marshal, Professional Standards, to complainants, the subjects of the complaints and the Chairperson.

Finally, reports sent to complainants, the subjects of the complaints and the Chairperson at the end of investigations contained all the necessary explanations to support the conclusions of the Deputy Provost Marshal, Professional Standards.

During the year, the Chairperson and her operational staff met, on two occasions, with the Provost Marshal and the Deputy Provost Marshal, Professional Standards, to establish an effective communication channel, to harmonize certain perceptions and to discuss subjects of common interest. The Chairperson finds that these meetings are extremely beneficial and can be held without compromising the independence and objectivity of the Commission.

Also during the year, the Chairperson provided several observations to the Provost Marshal concerning complaints falling within the jurisdiction of the Commission.

On another subject, the Chairperson wishes to mention the speed with which the Provost Marshal

responded to a request from the Commission. While the Commission investigator was conducting the investigation into the interference complaint, he asked the Canadian Forces National Investigation Service investigator who had investigated the same incident for a copy of his report. While the Canadian Forces National Investigation Service investigator had no formal objection to providing the report, as it was the first time he had received such a request, he referred it to the Provost Marshal, who immediately contacted the Commission Chairperson. The Provost Marshal handled the situation diligently by issuing a policy directive authorizing military police units to provide their investigation reports to Commission investigators on request. Otherwise, it would have been necessary to proceed according to the *Access to Information Act*.

Recommendations

The annual report provides the Chairperson with the opportunity to make recommendations, as required. For the Commission's first year of operation, the number of complaints studied (56), many of which have not yet been completed, is not sufficient to indicate trends that might support appropriate recommendations.

ACTIVITIES IN THE LEGAL DOMAIN

During the year 2000, the Commission's Legal Services unit hired a Senior Counsel, an Administrative Assistant, a Librarian, a Lawyer and a Student-at-Law.

Legal Services contributed to most of the work of the Commission as well as in establishing a library in collaboration with the Canadian Forces Grievance Board, which shares the facility. Legal Services also studied a number of provisions of the *Act* that lend themselves to various interpretations, in order to further clarify their scope. In addition, they assisted the Commission in investigating two complaints carried out in the public interest.

The Operations Branch conducted an in-depth analysis of Part IV of the *Act* as well as *The Queen's Regulations and Orders for the Canadian Forces* in order to produce documents in lay terms and gain greater insight into the subject matter.

Specific legal research was necessary in order to define the scope of certain provisions of the *Act* and to explain and reconcile apparent differences between its English and French versions.

In addition, Legal Services examined questions relating to the *Access to Information Act*, and the *Privacy Act*.

In December 1999, the Department of National Defence and the Canadian Forces Ombudsman presented a regulatory regime related to his mandate. The Commission Chairperson and Diane Laurin, Vice Chairperson and Interim Chairperson of the Canadian Forces Grievance Board, jointly expressed their reservations on behalf of the organizations they represent. The respective organizations are affected by the ministerial direction of June 16, 1999 and the Ombudsman's proposed regulatory plan, as relates to the matter of subjecting the two organizations to the Ombudsman's powers of intervention and inquiry. This being said, the crucial role the Ombudsman plays in enhancing the well-being of Department of National Defence and Canadian Forces personnel is recognized. Nevertheless, this role should be performed outside of the specific areas of jurisdiction that the legislator has assigned to the Commission and the Board.

In some respects, the Ombudsman's proposed regulations would create a problem of overlap with the mandate of the Commission, the Grievance Board and the Ombudsman. The Chairperson defended her position in a joint memorandum, stating that the Commission and the Grievance Board were given exclusive jurisdiction to handle issues related to their respective mandates pursuant to the *Act*. Subsequent meetings were held with concerned parties.

PROMOTIONAL ACTIVITIES

During the year 2000, the Chairperson took advantage of every opportunity to have the Commission better known and to explain its mandate, mission, vision and values. She would like to particularly thank the Chief and Vice Chief of the Defence Staff, the Provost Marshal and their respective personnel for having given her these opportunities.

Speeches

The Chairperson gave a number of speeches over the course of the year:

- before the Military Police Advisory Committee (Ottawa);
- at the Symposium for the Leadership of the Canadian Forces Military Police (Cornwall);
- before the Armed Forces Council (Ottawa);
- before the Canadian Forces G1 Working Group (Ottawa);
- at a training session organized by the Canadian Forces Grievance Board (Ottawa);
- at the Canadian Forces Base Commanders Forum (Ottawa);
- at the Area Provost Marshal Conference (Edmonton);
- before the Canadian Forces Naval Board (Quebec City).

Visits

At the end of July, the Chairperson travelled to Bosnia, where she visited military police detachments and held discussions with members of the military police.

In September, the Chairperson travelled to Western Canada, visiting bases in Winnipeg, Shilo, Edmonton and Dundurn. In each location she made presentations, met and held discussions with military police members and spoke with base commanders.

Associations

As part of her mandate, the Chairperson participated in the annual conference of the Canadian Association for Civilian Oversight of Law Enforcement (CACOLE), of which she is a member, which was held in Winnipeg. She also spoke before the Canadian Council of Administrative Tribunals (CTAC), of which she is also a member, about the establishment of the Commission, its mandate and role.

Numerous members of the military police, particularly those in Bosnia, have expressed their appreciation for the interest shown in them by the Commission. For the Chairperson, these visits were excellent opportunities to become better informed on military police functions and their working environment. The police officers were provided an opportunity to voice their expectations and any uncertainties they might have had regarding the Commission. Though the Chairperson was able to reassure them on a number of points regarding the Commission, other concerns were reported to the Provost Marshal, while still others require further reflexion prior to becoming more involved or making them the subject of recommendations.

Outreach

As part of its objective to have the Commission better known and to promote its accessibility, the Commission continued to develop a strategic communications plan to identify its audiences and to communicate to that audience the appropriate messages. It also began the development of a Web site, which will provide public access to extensive information on the Commission. Background documents were also prepared for the information of complainants and the general public. Others are in the process of being prepared.

PERSPECTIVES – 2001

Consolidation of Strengths

In reviewing the main achievements of the Commission in 2000, the Chairperson considers that much was accomplished on both an organizational and operational level. Almost all of the Commission's personnel have been hired and are working in newly renovated, modern and functional offices, with equipment that is equally modern and functional. All of this has contributed to the establishment of a working environment that is both pleasant and stimulating.

In the performance of duties falling within its jurisdiction, which includes monitoring the complaint handling process of the Provost Marshal, conducting investigations and organizing and participating in promotional activities, the Commission successfully earned the reputation it has sought to acquire and maintain – that of a professional organization of great integrity that remains independent in the work it carries out. For these same reasons, the Chairperson believes that the Commission has contributed to increasing confidence in the military police among employees of the Department of National Defence and the Canadian Forces and among members of the general public.

It is fitting, at this juncture, that the Commission, based on its experience to date, take the time to adjust certain aspects of its organization and methods. This will permit the consolidation of its strengths, appropriate adjustments for the most effective use of its resources, improved efficiencies, and a review of its objectives.

Updating the Organization of the Commission

While most positions in the organizational structure have already been classified, it will be necessary to repeat the exercise in compliance with the provisions of the new universal classification system. Among its benefits, the exercise will allow the tasks and responsibilities for each position to be reviewed and redefined. Positions that were filled during the year 2000 on a contractual basis or by secondment will be reviewed according to federal Public Service Commission requirements.

Despite a significant reduction in its budget, the Commission will strive to maintain or improve the level of efficiency in its activities by sharing common services. To this end, it plans to reinforce its partnership with the Canadian Forces Grievance Board to share support services.

Contract Investigators

To support Operations employees, as required, reduce the travel costs of investigators and handle complaints rapidly, plans are underway to develop a network of investigators under contract, who will be strategically located across Canada.

Steps were taken in 2000 to provide the Operations Branch with a complaint management system in order to conduct the daily monitoring of files, to facilitate controls and to identify significant trends, allowing the Commission to take appropriate, timely action as required. This system will be implemented in early 2001. A variety of file management systems were studied and the one which will best meet the Commission's needs for the most competitive price was selected.

Enhanced Role of Legal Services

Legal Services began to draw up rules and procedures for Commission hearings. These rules should be adopted by early 2001. The unit will then begin work on other rules that the Commission has the power to make under the *Act* and intends to adopt, most notably those involving how investigations of the Commission are conducted; the distribution of business and work among Commission members; and the conduct of work carried out by the Commission and its administration.

Legal Services will also spend much of 2001 continuing to study Part IV of the *Act* in depth.

Finally, it is expected that Legal Services will be called upon to play an enhanced support role in the handling of complaints and the preparation of reports.

Continued Promotional Activities

The Commission is interested in solidifying its image and role in order to dispel any negative perceptions and to demonstrate that its actions have brought about positive change.

The Chairperson intends to take full advantage of every opportunity presented by the Canadian Forces and the Provost Marshal, and from all speaking engagements, to communicate her message. She also intends to continue her program of visits to military bases, at the end of which she will conduct an analysis of her observations and the questions brought to her attention over the course of her visits.

In addition, a strategic communications plan is currently being prepared, as are public information background documents and a Web site, which will provide the public with extensive information, most notably on the *Act*, the Commission, its role, work and annual reports.

Conclusion

During the course of the past year, the Commission has acquired a keen awareness of military culture. There is a greater appreciation for the work environment of the military police, their concerns as well as their expectations as regards the system of ethics regulating their professional conduct.

The complaints that the Commission has examined and the investigations it has conducted have provided more relevant information on the origin of complaints and on the nature of allegations, just as it has on the circumstances associated with the derogatory conduct.

Thus, the Commission is in a far better position going forward into 2001 to identify the measures that need to be taken in order to achieve its mandate. In the end, it is hoped that these measures will result in the promotion of elevated standards of professional conduct by members of the military police and, consequently, a reduction in the number of complaints.

BIOGRAPHIES

Louise Cobetto

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

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

Born in Montreal in 1954, Ms. Cobetto graduated in 1980 with a degree in law from the University of Montreal, where she received the Deacon Kennedy award for her outstanding academic record. She was admitted to the Quebec Bar in 1981.

Thomas G. Flanagan, S.C.

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

Mr. Flanagan is presently a special advisor on criminal justice and law enforcement to Beretta USA Corp., and an advisor to Price Waterhouse Management Consultants on police management. Mr. Flanagan is a life member of the Canadian and Ontario Associations of Chiefs of Police, an active member of the International Association of Chiefs of Police and a former member of the Board of the Ottawa University Centre of Criminology.

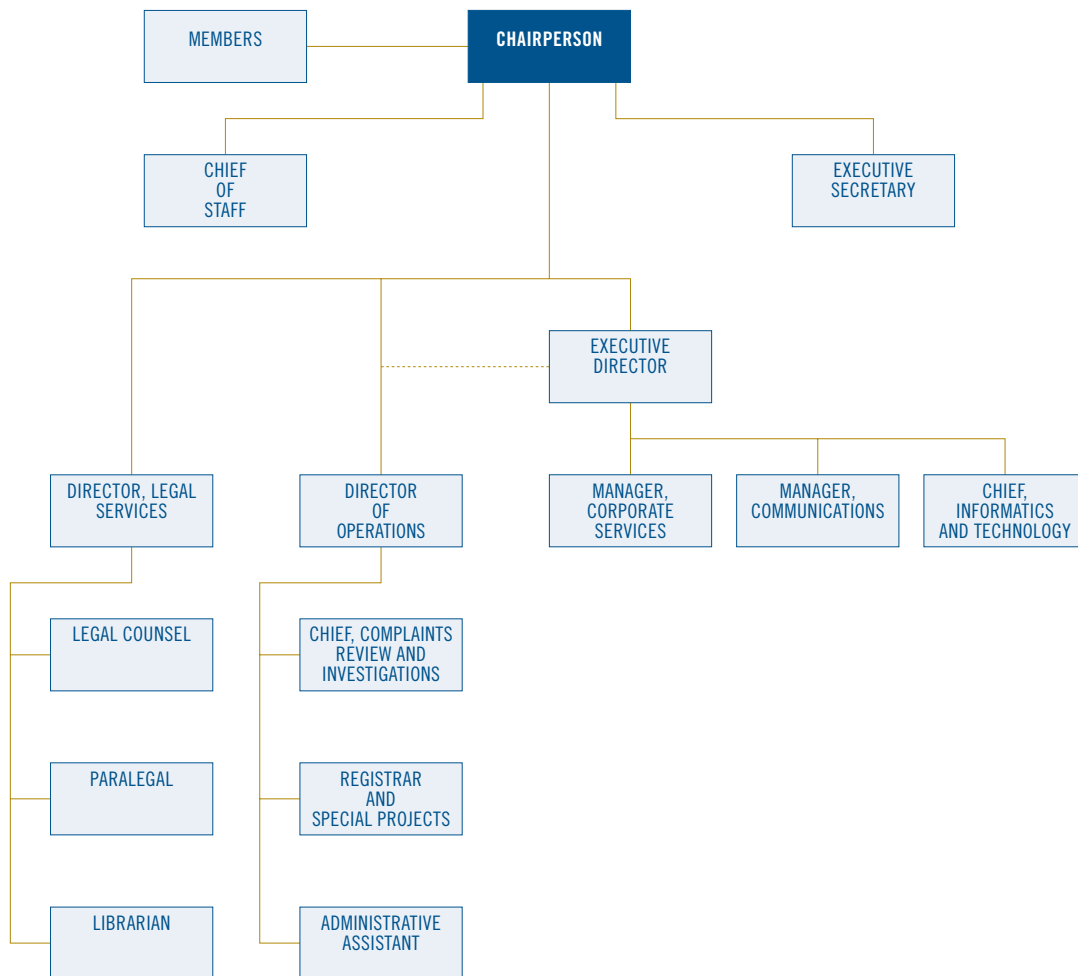
Active in the community, Mr. Flanagan is a co-founder of Operation Go Home and was also a founding member of the Board of Directors of the Ottawa Community Service Order Committee. Mr. Flanagan was awarded several decorations such as the Star of Courage and the *Queen’s Commendation for Brave Conduct*.

Paul E. Duffie, Q.C.

Paul E. Duffie is a practicing lawyer with the law firm Duffie, Deschênes & Ouellette. He previously served as an elected official for many years, first as Mayor of the Town of Grand Falls, New Brunswick, and later as a Member of the New Brunswick Legislative Assembly for the Grand Falls Region. He was first elected to the Legislative Assembly in 1987, re-elected in 1991 and again in 1995. While a Member of the Legislative Assembly, Mr. Duffie held the ministerial portfolios of Education, Municipalities, Culture and Housing and, from 1995 to 1997, served as New Brunswick Minister of Justice and Attorney General. During this period, he served as Chair of the Standing Committee of Law Amendments.

Mr. Duffie received a Bachelor of Business Administration from Ricker College in Maine and a Bachelor of Laws degree from the University of New Brunswick.

ORGANIZATION CHART



COMMISSION BUDGET

Commission Budget (dollars)	Actual Spending 2000	Planned Spending 2001
Salaries, wages and other personnel costs	1,000,000	1,786,000
Contributions to employee benefit plans	195,000	348,000
Subtotal	1,195,000	2,134,000
Other operating expenditures	2,465,000	1,876,000
Total net spending	3,660,000	4,010,000

COMPLAINTS ABOUT THE CONDUCT OF MEMBERS OF THE MILITARY POLICE REGULATIONS

INTERPRETATION

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

POLICING DUTIES AND FUNCTIONS

2. (1) For the purpose of subsection 250.18(1) of the Act, any of the following, if performed by a member of the military police, are policing duties or functions:
 - a) the conduct of an investigation;
 - b) the rendering of assistance to the public;
 - c) the execution of a warrant or another judicial process;
 - d) the handling of evidence
 - e) the laying of a charge
 - f) attendance at a judicial proceeding;
 - g) the enforcement of laws;
 - h) responding to a complaint; and
 - i) the arrest or custody of a person.

(2) For greater certainty, a duty or function performed by a member of the military police that relates to administration, training, or military operations that result from established military custom or practice, is not a policing duty or function.

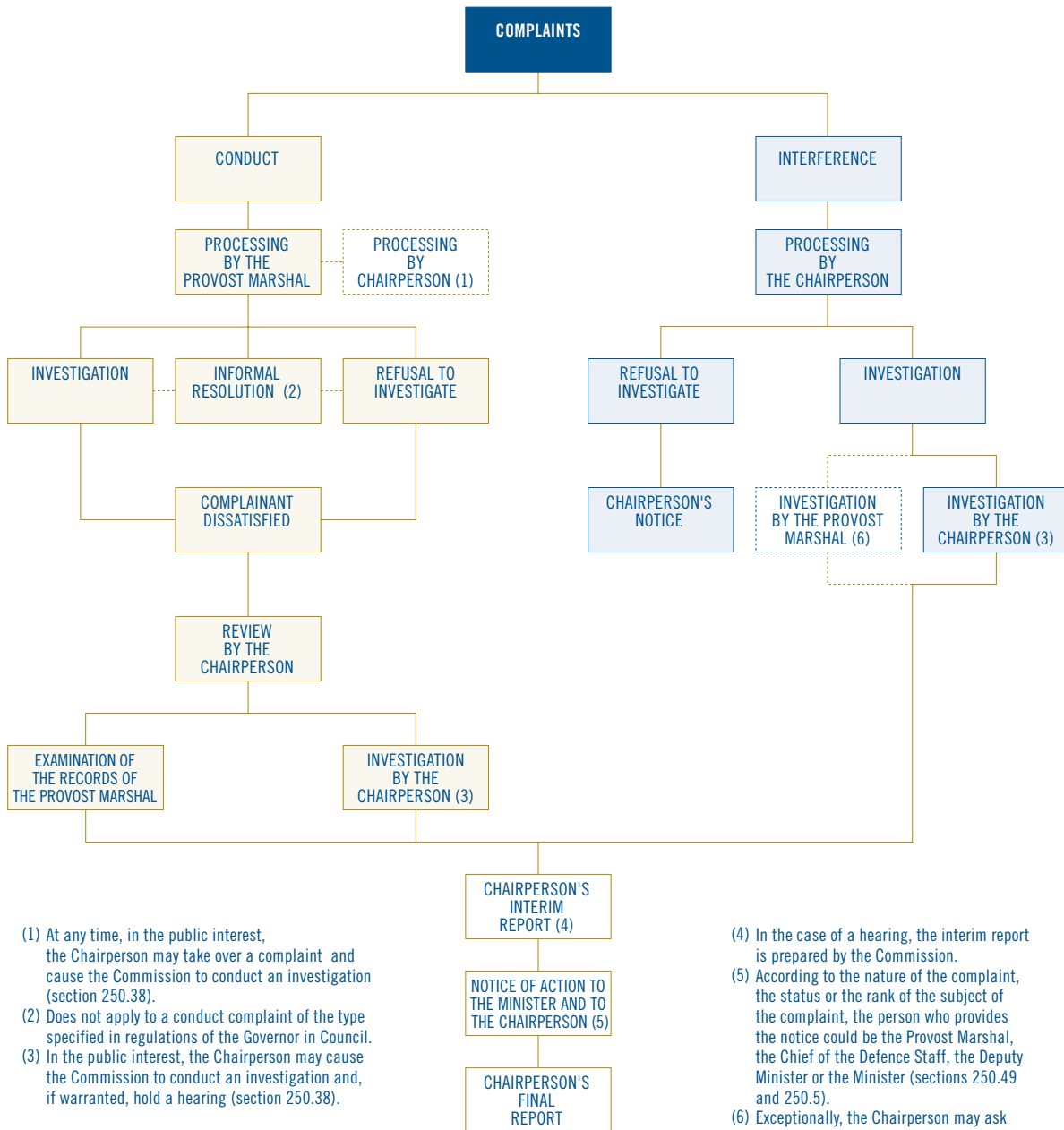
WHEN NO INFORMAL RESOLUTION

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

COMING INTO FORCE

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

COMPLAINTS





HOW TO CONTACT US

There are several ways to reach the Commission:



- Call our information line at (613) 947-5625 or toll-free at 1 800 632-0566 and speak to an intake officer.
 - Send us a fax at (613) 947-5713 or toll-free at 1 877 947-5713. Please call (613) 947-5625 for information about sending a secure fax.
-



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

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



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



By e-mail at mpcc-cppm@smtp.gc.ca. but do not send confidential information, as we cannot guarantee privacy at this time.