



Military Police  
Complaints  
Commission

Commission d'examen  
des plaintes concernant  
la police militaire

*Open and effective Cocommunication*

PROFESSIONALISM

*Dedication* **Dévouement**

*Communications*

Fairness

DEDICATION

DEDICATION

# A DECADE OF OVERSIGHT 2009 ANNUAL REPORT



*Dévouement*

Mutual respect

*Dedication*

EQUITY INTEGRITY

dedication

*Dedication*

*Fairness*

*Dévouement*



Canada

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### Send us a letter:

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270 Albert Street, 10th floor,  
Ottawa, ON K1P 5G8

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# Letter of Transmission to the Minister

March 31, 2010

The Honourable Peter Gordon MacKay, P.C., M.P.  
Minister of National Defence  
National Defence Headquarters  
MGen George R. Pearkes Building  
Ottawa ON K1A 0K2

Dear Minister:

In accordance with section 250.17(1) of the *National Defence Act*, it is my duty and privilege to submit for tabling in Parliament the Military Police Complaints Commission Annual Report for 2009.

In this Annual Report, you will find a detailed discussion of all significant aspects of the Commission's activities during 2009, including summaries of some of its reviews and investigations of complaints.

All of which is respectfully submitted.

Yours truly,

A handwritten signature in blue ink, appearing to read "Glenn Stannard".

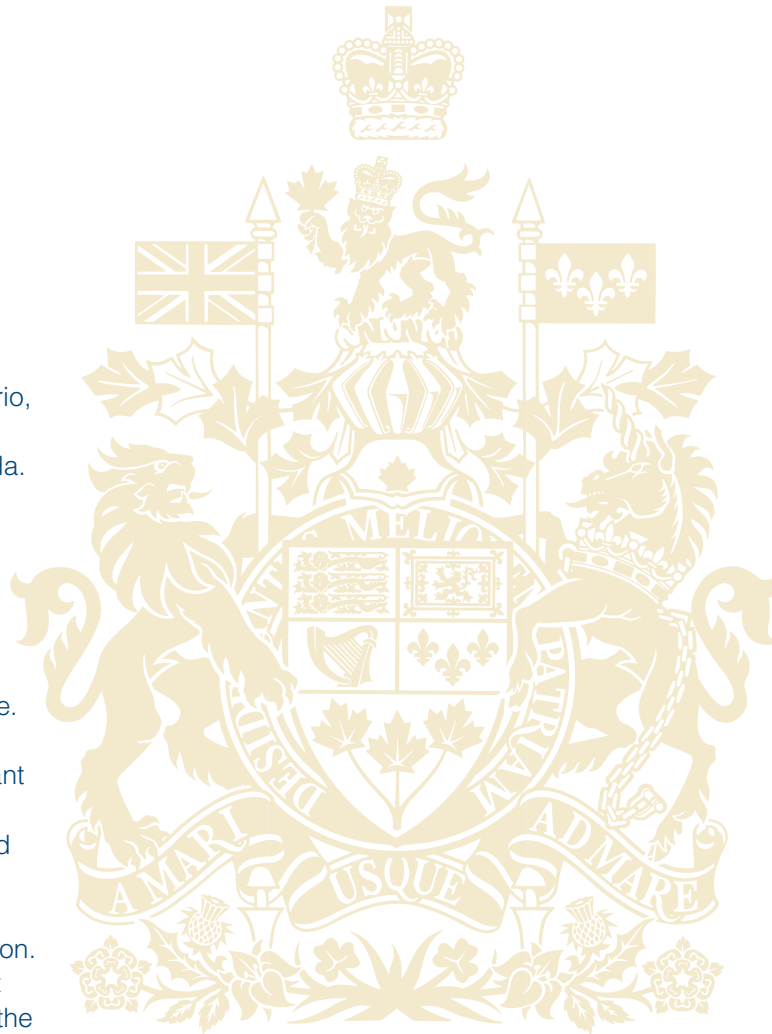
**Glenn Stannard**  
**Acting Chairperson**

## The history of the Coat of arms

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

The original design displayed the arms of the four original members of Confederation: Ontario, Quebec, Nova Scotia and New Brunswick. It was summarily adopted as the arms of Canada. This design did not suit the growth of the country, however.

As additional provinces joined the country, attempts were made to adapt the seal by adding the arms of the new provinces. The result was a crowded and confused appearance. For this reason, the Canadian Government submitted a request to the Sovereign for a grant of arms. This request was approved, and the arms assigned to Canada were appointed and declared in a proclamation from His Majesty King George V, on November 21, 1921. The result was a design similar to the current version. The original design was adapted to its current state in 1994 with the addition of the motto of the Order of Canada surrounding the shield, on the advice of Prime Minister Pierre Trudeau, and following approval by HRH Queen Elizabeth II.



## THE MOTTO AND RIBBON

The motto, “A Mari usque ad Mare” is based on Psalm 72:8, “He shall have dominion from sea to sea and from the river unto the ends of the earth.” It was first used in 1906 in the new Legislative Assembly of Saskatchewan, carved onto the head of their mace. Sir Joseph Pope, Undersecretary of State first proposed the motto, being impressed by its meaning. Later, on April 21, 1921, the Order in Council proposed the motto for the new coat of arms, and it was finally confirmed by Royal Proclamation on November 21, 1921. Following the advice of the Prime Minister of Canada, HRH Queen Elizabeth II approved the addition of a ribbon to the Royal Arms. The motto is that of the Order of Canada, “Desiderantes Meliorem Patriam” (They desire a better country). The augmentation of the ribbon was suggested by Mr. Bruce Hicks, of Ottawa, and was approved on July 12, 1994.

# Table of Contents

<b>A TRIBUTE TO PETER A. TINSLEY</b> .....	<b>4</b>	<b>PART 3 – OVERSIGHT 2009</b> .....	<b>18</b>
<b>ACTING CHAIRPERSON’S MESSAGE</b> .....	<b>5</b>	i) Introduction and Accomplishments .....	18
<b>PAST CHAIRPERSON’S MESSAGE</b> .....	<b>6</b>	ii) Monitoring and Investigations .....	19
<b>PART 1 – OVERVIEW</b> .....	<b>8</b>	iii) Oversight Challenges .....	19
i) Military Police Complaints Commission .....	8	Afghanistan Public Interest Cases .....	19
ii) Mandate and Mission .....	8	Challenges to Transparency and Accountability (Privacy and Access to Information) .....	21
iii) The Military Police .....	9	iv) Impact on Military Policing (Specific Cases) .....	22
iv) Conduct Complaints .....	9	v) Outreach and Collaboration .....	27
v) Interference Complaints .....	11	<b>PART 4 – STEWARDSHIP EXCELLENCE</b> .....	<b>30</b>
vi) Public Interest Investigations and Hearings .....	11	i) Human Resource Management .....	30
<b>PART 2 – A DECADE OF OVERSIGHT     LEADERSHIP AND SERVICE</b> .....	<b>12</b>	ii) Finance .....	31
		iii) Compliance and Accountability .....	33
		iv) Communications .....	33
		<b>PART 5 – IN CONCLUSION</b> .....	<b>34</b>
		<b>PART 6 – ANNEXES</b> .....	<b>35</b>
		Biography of the Acting Chairperson .....	35
		Biography of Commission Members .....	36
		Current Organization Chart .....	37



## A TRIBUTE TO PETER A. TINSLEY

During his four year tenure, Peter A. Tinsley provided exemplary leadership as Chairperson of the Military Police Complaints Commission (Commission). His extensive legal, military, and civilian oversight knowledge, experience and expertise greatly benefited not only the Commission, but also its clients, partners and stakeholders.

Mr. Tinsley strongly believed in justice and the rule of law as cornerstones of a democratic society. He also recognized and supported the vital role of the Military Police, and police services in general, and the important relationship of oversight to confidence in policing. In this regard, he worked successfully to ensure that the Commission's operations, deliberations and decision-making were characterized by the qualities of fairness, transparency, and accountability and that the Commission's mandate was clearly understood in Canada and internationally.

Over the past four years, the Commission faced and met numerous operational and corporate challenges under Mr. Tinsley's guidance. Many of the findings and recommendations from its review of complex conduct or interference complaints have had important, far reaching impacts which truly contributed to promoting and ensuring the highest standards of military police conduct.

While he was Chairperson, Mr. Tinsley was elected first as Vice President and then as President of the Canadian Association for Civilian Oversight of Law Enforcement (CACOLE), a public testimony in and of itself to his professionalism, and the esteem in which he was held by the oversight community.

He contributed significant efforts to further strengthening the working relationship between the Commission and the Canadian Forces Provost Marshal (CFPM) for mutual, long term benefit and ultimately, for the benefit of Canadians. He also ensured the Commission met its corporate stewardship obligations and contributed to the work of its government partners to advance the resolution of common issues.

## ACTING CHAIRPERSON'S MESSAGE

It is an honour to have been appointed as Acting Chairperson of the Military Police Complaints Commission (Commission) on December 11, 2009.

Having served as a member of the Commission for more than two years, since September 2007, I am familiar with the many challenges facing the MPCC as it provides independent civilian oversight of the Canadian Forces Military Police. I am also aware of the Commission's impressive accomplishments and its positive contributions over the past ten years, in collaboration with the Canadian Forces Provost Marshal (CFPM), to promoting the highest standards of military police conduct.

As Acting Chairperson, I am committed to ensuring that the Commission continues to work productively with the CFPM, the chain of command, the Military Police community and our partners and stakeholders to fulfill our mandate.

I am also committed to further advancing the important work of the Commission which is already underway, as well as to effectively addressing those new priorities and issues that will, no doubt, arise in the future. I look forward to meeting these challenges, and to working with the Commission's excellent staff.



A handwritten signature in blue ink, appearing to read "Glenn Stannard". The signature is fluid and cursive, written over a white background.

**Glenn Stannard**  
**Acting Chairperson**

## PAST CHAIRPERSON'S MESSAGE

I am pleased to contribute to the Military Police Complaints Commission's (Commission) 2009 Annual Report which has, as its theme, "A Decade of Oversight Leadership and Service." This theme very aptly reflects the Commission's important legacy of progress, contributions and accomplishments over the past ten years providing independent civilian oversight of the Canadian Forces Military Police.

It was my great privilege to have been appointed in December 2005 to serve as the Chairperson of this Commission and to have had the opportunity to work, once again, in the field of oversight of policing services; oversight, I believe, is a particularly important function and highly relevant in these times. My experiences, and the issues the Commission has dealt with over the past four years, have been enormously interesting as well as frequently extremely challenging.

In beginning my term as Chairperson, I committed to build on the efforts of my predecessor to ensure that the Commission had the capacity and authority to provide effective oversight of the Military Police. I am pleased to say substantive operational and corporate initiatives were undertaken to further reinforce Commission transparency and accountability as well as to streamline and modernize operations.

I also looked forward to further strengthening relationships with the leadership of the Military Police, the Vice-Chief of the Defence Staff and the Canadian Forces Provost Marshal (CFPM). I believe we have done so through productive and collaborative efforts which have resulted in, for example, the CFPM's acceptance of 100% of the Commission's findings and recommendations over the past four years. This has resulted in important policy, procedural and other changes which have contributed to ensuring the highest standards for military police conduct.

This year's report highlights several themed examples of cases which illustrate the scope and impact of Commission findings and recommendations throughout the past decade as well as specific cases reviewed and investigated in 2009. In this latter regard, Final Reports were completed for two extremely complex, costly, multi-year investigations one of which involved white collar crime and the other of which involved complaints regarding detainee treatment in Afghanistan.

Further strategic developments also took place concerning the disposition of documentation and legal challenges associated with the Afghanistan Public Interest Hearing in the Commission's efforts to examine complaints from Amnesty International Canada and the British Columbia Civil Liberties Association. In addition, corporate activities and initiatives were taken to effectively support the Commission's operating needs and ensure prudent management accountability for its resources.

On Tuesday, December 1, 2009, we celebrated the Commission's tenth anniversary with the first Chairperson of the Commission, Ms. Louise Cobetto, parliamentarians, stakeholders from the Military Police, colleagues from federal boards and agencies, and others in attendance. In my remarks on this occasion, I observed that through my international opportunities to observe other societies' relations with their police and security services, (and to share the Canadian experience in oversight), it is evident Canadians are very fortunate to enjoy a high standard of policing and positive police-community relations. Many of those societies are striving to emulate Canada.



The police play a critical role in any democratic society. The social value of oversight entities is not only related to police misconduct or malfeasance but also to maintaining Canadians' confidence that any misconduct will be addressed in accordance with the rule of law. Matters of confidence are matters of perception and ultimately, perception is reality. Confidence and perception are fragile and must be safeguarded and nurtured.

It was gratifying the oversight role and contributions of the Commission were acknowledged by other speakers at the December 1, 2009 tenth anniversary celebration. In his remarks, the Canadian Forces Provost Marshal (CFPM), Colonel Tim Grubb commented the Commission had "*contributed enormously*" and the key note speaker for the event, Major General (Ret'd) Lewis MacKenzie, observed the Commission provides a "*very valuable service.*"

Commission staff members have demonstrated tireless efforts to effectively support the oversight mandate of the Commission. Their impressive professionalism, expertise, high performance standards, and truly admirable capacity to respond to the pressures of changing operational priorities and other environmental realities are worthy of special recognition and respect. I am most grateful for their support.

I would also like to thank Commission Members Roy Berlinquette, Louis Bélanger and Glenn Stannard for their professional contributions to the challenging work of the Commission as well as the CFPM, the Deputy Provost Marshal Professional Standards and staff, the broader Military Police community, and our partners and stakeholders. Such contributions have benefited not only the Commission's work but also the Military Police, the Canadian Forces, those in Canada's military communities and Canadian society as a whole.

With the first decade of effectively providing Military Police oversight now completed, the Commission can reflect with pride on its reputation as a respected, independent civilian oversight agency. Looking to the next decade and beyond, the Commission will undoubtedly be presented with complex, new operational and corporate demands as well as opportunities to ensure its role and authority to provide effective oversight of the Military Police are clearly understood and reinforced. The Commission must remain confident in its ability to strategically meet these challenges, and continue to apply high standards of excellence in doing so.



A handwritten signature in blue ink that reads "Peter A. Tinsley". The signature is fluid and cursive, with a long, sweeping underline.

**Peter A. Tinsley,**  
**Chairperson, 2005 - 2009**



## I Military Police Complaints Commission

The Military Police Complaints Commission (the MPCC or the Commission) was established by the Government of Canada to provide independent civilian oversight of the Canadian Forces military police, effective December 1, 1999. This was executed by an amendment to the *National Defence Act (NDA)*, Part IV of which sets out the full mandate of the Commission and how complaints are to be handled. As stated in Issue Paper No. 8, which accompanied the Bill that created the Commission, its role is “to provide for greater public accountability by the military police and the chain of command in relation to military police investigations.”

## II Mandate and Mission

**Mandate:** The Commission reviews and investigates complaints concerning military police conduct and investigates allegations of interference in military police investigations. It reports its findings and makes recommendations directly to the military police and national defence leadership.

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

### The Commission fulfills its mandate and mission by exercising the following responsibilities:

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

# III

## The Military Police

Military police members provide a variety of operational, law enforcement, investigative and security services at Canadian Forces' (CF) Bases and Units across Canada and throughout the world, wherever the Canadian Forces serve.

With approximately 1,245 members, the Military Police exercises jurisdiction within the Forces, and over both Department of National Defence (DND) employees and visitors on DND property. The Military Police form an integral part of the military justice system in much the same way as civilian

police act within the civil and criminal justice system. They routinely train and work with their civilian counterparts in the provision of police and security services to the CF and DND.

Members of the Military Police hold the title of "Specially Appointed Persons" and, as such, are granted certain powers under the *National Defence Act* in order to fulfill their policing duties. For example, military police have the power to arrest, detain and search. The *Criminal Code of Canada* recognizes members of the military police as peace officers. They can arrest and lay charges for certain specific offences pursuant to the *National Defence Act* and the *Criminal Code* and lay charges in civilian criminal courts.

# IV

## Conduct Complaints

Anyone may make a conduct complaint regarding the Military Police in the performance of their policing duties or functions, including those individuals not directly affected by the subject matter of the complaint. The CFPM is responsible for dealing with complaints about military police conduct in the first instance. The Commission has the authority both to monitor the steps taken by the CFPM as it responds to complaints, and to intervene as required.

### Conduct Complaints Process

#### Conduct Complaint Filed

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

#### Complaint Investigated by the CFPM

As the CFPM investigates a complaint, the Commission monitors the process. At the conclusion of the investigation, the CFPM provides a copy of the Report of Findings and Actions to the Commission. The Commission may, at any time during the CFPM investigation, assume responsibility for the investigation or call a public hearing if it is deemed to be in the public interest to do so.

#### Request for Review

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

#### Commission Reviews Complaint

At a minimum, this process involves a review of documentation related to the CFPM's investigation. Most often, it also includes interviews with the complainant, the subject of the complaint, and witnesses, as well as reviews of relevant legislation, and police policies and procedures.

#### Commission Releases Interim Report

The Interim Report is sent to the Minister of National Defence, the Chief of Defence Staff and the CFPM.

#### Notice of Action

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

#### Commission Releases Final Report

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

## HOW THE COMMISSION CARRIES OUT ITS REVIEW / INVESTIGATION OF CONDUCT COMPLAINTS

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

- A Commission lawyer does a preliminary review of the request for review and then briefs the Chairperson, who determines how to respond to the request, whether an investigation is required, the scope of the investigation warranted and how to approach the investigation.
- A lead investigator is assigned and, with a Commission lawyer, reviews the evidence and other materials gathered during the CFPM's investigation of the complaint – this could be hundreds of pages of documents, emails, handwritten notes and reports, and many hours of audio and video interviews with witnesses.



- The lead investigator prepares an Investigation Plan, setting out the goals, timelines and budget for the investigation, as well as the lines of inquiry to be pursued, all of which must be approved by the Chairperson or an assigned Member of the Commission.
- The lead investigator and an assisting investigator, in consultation with Commission legal counsel, then conduct a detailed examination of the material from the CFPM; review any relevant legislation, policies and regulations; and arrange and conduct interviews with witnesses.
- Following the completion of witness interviews, the investigators submit a comprehensive report on the information gathered during the investigation to the Chairperson or assigned Commission Member.
- Subject to any necessary further inquiries, the Chairperson or assigned Commission Member reviews the results of the investigation and determines his findings and recommendations about the complaint. On the basis of these findings and recommendations, the Chairperson or Commission Member prepares the Commission's Interim Report with the assistance of Commission legal counsel. The Interim Report goes to the Minister of National Defence, the Chief of Defence Staff and the CFPM.
- Following receipt and consideration of the official response to the Commission's Interim Report, which is ordinarily provided by the CFPM in a Notice of Action, the Commission then prepares and issues its Final Report, which goes to the relevant departmental officials, and also to the complainant and the subject members(s) of the Military Police.

# V

## Interference Complaints

The Commission has the exclusive authority to deal with interference complaints. Any member of the Military Police who conducts or supervises a military police investigation and believes a member of the CF or a senior official of the DND has interfered with, or attempted to influence, a military police investigation, may file a complaint with the Commission. This process recognizes the special situation of Military Police, who are both peace officers and members of the CF subject to military command.

### Interference Complaints Process

#### Interference Complaint Filed

Members of the Military Police who conduct or supervise investigations may complain about interference in their investigations.

#### Complaints Commission Investigates

The Commission has sole jurisdiction over the investigation of interference complaints. A preliminary review is conducted to determine whether an investigation should be initiated, the scope of the investigation and how to approach the investigation. Once this is completed, the Commission commences an investigation.

#### Commission Releases Interim Report

The Interim Report includes a summary of the Commission's investigation, as well as its findings and recommendations. This report goes to the Minister of Defence; the Chief of Defence Staff if the alleged interference was carried out by a member of the military or to the Deputy Minister if the subject of the complaint is a senior official of the Department; the Judge Advocate General; and the CFPM.

#### Notice of Action

This official response to the Interim Report indicates the actions, if any, which have been or will be taken to implement the Commission's recommendations.

#### The Commission Releases Final Report

Taking into account the response in the Notice of Action, the Commission prepares a Final Report of its findings and recommendations in the case. The Final Report is provided to the Minister, the Deputy Minister, the Chief of Defence Staff, the Judge Advocate General, the CFPM, the complainant and the subject(s) of the complaint, as well as anyone who has satisfied the Commission that they have a direct and substantive interest in the case.

# VI

## Public Interest Investigations and Hearings

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

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

# PART 2 – A DECADE OF OVERSIGHT LEADERSHIP AND SERVICE



This section of the report recognizes a decade of important oversight leadership and service by the Commission. Following the establishment of the Commission on December 1, 1999 under Part IV of the *National Defence Act*, and through the instrumental leadership of the Commission's first Chairperson, Ms. Louise Cobetto, the Commission necessarily focused much of its initial energies on the complex challenges of building an organization and its operational and administrative components from a base of legislative text.

This included building collaborative working relationships with the office of the CFPM, CFPM staff and the Military Police community as well as other partners and stakeholders within and outside government; gaining an understanding of military culture, structure, organization, policies and procedures; as well as ensuring the required financial, administrative and professional human resources support for Commission operations. However, all of this was successfully accomplished while also meeting the many demands of day-to-day oversight business.

In 2000, the first full year of operation, the Commission did not hold any public hearings, however, it did exercise jurisdiction by monitoring the CFPM's handling of more than 50 conduct complaints, investigating an interference complaint and conducting a Public Interest Investigation.

Over the past decade, the Commission's work has had an important impact on promoting and ensuring the highest standards for military police conduct. It is worth noting that during this time, the Commission monitored nearly 500 CFPM investigations and issued 153 interim/final/concluding reports with respect to the Commission's own investigations and reviews.

## **The following eight themes (and supporting case examples) highlight some of its many important contributions:**

- a) Oversight Leadership
- b) Military Police Structure and Role
- c) Conflict of Interest and Interference

- d) Military Police in the Civilian Community
- e) Chain of Command /Supervisor Accountability
- f) Duty Owed to Complainants and Subjects in an Investigation
- g) Escort and Transport of Vulnerable (Mental Health) Detainees
- h) Strengthened Policies and Procedures

## **a) Oversight Leadership**

The Commission's oversight leadership has been demonstrated in many ways, e.g. through leadership of, and contributions to, civilian oversight organizations; through its special reports and briefs on legislative matters; and through the sharing of its professional experiences and expertise nationally and internationally.

### **Leadership of, and Contributions to, Civilian Oversight Organizations:**

This includes the election of one Commission Chairperson (Peter A. Tinsley) initially as Vice-President, and then as President of the Canadian Association for Civilian Oversight of Law Enforcement (CACOLE); and the involvement of other Commission representatives as members of the CACOLE Board: Ms. Louise Cobetto, the first Chairperson of the Commission and the former General Counsel, Ms. Johanne Gauthier. The Commission regularly contributes to professional development in the oversight community through e.g. the development of papers on issues such as the standard of proof in matters of police discipline.

**Special Reports and Briefs on Legislative Issues:** Over the years, the Commission has published a number of special reports and briefs on a range of matters including concerns and constructive recommendations associated with possible further amendments to the *National Defence Act*.

In 2005, during the tenure of Interim Chairperson, Mr. Henry Kostuck, the Commission published a report entitled “Updating Civilian Oversight of Canada’s Military Police: Achieving Results for Canadians.” The report described a number of issues which it felt should be brought to the attention of Parliamentarians and all Canadians to further strengthen civilian oversight of Canada’s Military Police.

Issues highlighted included concerns that: only the individual who filed the complaint can request the Commission to review its disposition by the CFPM and not the Member(s) of the Military Police who was/were the subject(s) of the complaint. Making such a change would give Military Police the same rights as those in other Canadian jurisdictions and reinforce the transparency and fairness of the complaints process.

**In addition:** protections against interference with the activities of military police should be expanded and clarified; the legislation should include explicit protection against reprisal for any member of the CF who files a complaint of any kind, interference or conduct; and the Commission should also have the power of subpoena in the conduct of Public Interest Investigations, as well as assurance of military police cooperation with its investigations.

#### **Parliamentary Brief on Amendments to the National Defence Act**

**Bill C-7:** In 2006, under the direction of Chairperson, Peter A. Tinsley, the Commission published a comprehensive brief entitled “Crisis in Building Confidence” for the Standing Committee on National Defence related to Bill C-7, an Act to Amend the *National Defence Act*.

In addition to assisting the Standing Committee, the brief sought to assist other Parliamentarians and all interested stakeholders in understanding the full potential impact of Bill C-7 in respect of the role and function of the

Commission. Essentially, the amendments to Bill C-7 would have significantly diminished the independent oversight of the Military Police and effectively eliminated proactive and systemic inquiries undertaken in the public interest.

The brief highlighted concerns such as the imposition of a special threshold for the Chairperson of the Commission including requiring the Chairperson to justify any decision to make a complaint in writing to the CFPM and the Minister. The brief also outlined possible adjustments including the need for clarifications on police duties subject to oversight; police activities subject to interference complaints; and the need to enhance the disclosure required of the CFPM in relation to production of relevant documents and materials to the Commission.

Bill C-7 did not proceed. However, a new Bill C-45 was subsequently tabled. While it did not contain as many of Bill C-7’s provisions impairing the Commission’s oversight role, Bill C-45 was nonetheless a lost opportunity to further strengthen the Commission’s oversight abilities. As and when the anticipated review of the *National Defence Act* formally occurs, the Commission has much to contribute.

**Sharing Professional Experience and Expertise:** The Commission’s professional experience and expertise are recognized nationally and internationally. For example, in 2009 the past Chairperson, representing both the Commission and CACOLE (as its President), shared the Canadian experience in oversight (along with challenges and opportunities) at two international conferences.

In Jordan, the First International Workshop on Independent Civilian Oversight, hosted by the United Nations Development Programme (UNDP), Iraq, initiated the first national dialogue on establishing civilian oversight in Basra, one of Iraq’s largest governates. In Brazil, the First International Seminar on Oversight Evaluation and Quality Performance of Social Defense Systems provided the forum to share international experiences and concepts associated with policing and ensuring public safety in a democratic society.

## b) Military Police Structure and Role

**Introduction:** This case refers to Dr. Amir Attaran's complaint and specific allegations regarding the treatment of three detainees by Canadian Forces' (CF) Military Police in Afghanistan. This case is discussed in much greater detail later in the Annual Report. However, the impact of the Commission's findings and recommendations included those related to the command and control structure, and the status and role of the Military Police, which are issues of fundamental importance to their effectiveness.

**Case Example:** In addition to the findings from the Commission's Public Interest Investigation into this complaint which dispelled any suspicions of mistreatment or cover-up by the Military Police, the Commission also made a number of important recommendations to the CFPM.

The Commission recommended further study be undertaken of the status and role of the Military Police at all levels within the CF with particular consideration towards ensuring a more complete command and control structure; implementing a related education program for the leadership of the Military Police and the broader CF; and reviewing the adequacy of military police personnel and equipment resources. In the Commission's view, systemic deficiencies may have impeded the realization of the full potential of the Military Police contribution to the CF.

The CDS and CFPM have indicated in response to the Commission's report that serious consideration was being given by senior CF leadership to the recommended reforms.

## c) Conflict of Interest and Interference

**Introduction:** Ensuring a common understanding and application of the terms conflict of interest and interference is fundamental to the effectiveness of the complaints resolution process, to the integrity of the work of the Military Police, and to chain of command accountability.

**Case Example (Conflict of Interest):** Through this case, the Commission identified the need to further refine and clarify the definition of conflict of interest beyond existing references at that time in military police Policies and Technical Procedures. Those references defined conflict of interest solely in respect of conflicts arising from outside employment.

The complainant alleged members of the Military Police were too personally involved with his family. The Commission found that one of the lead members of the Military Police involved in an investigation was a next-door neighbour to the complainant and well known to the family. Military police policies should consider whether any personal connection, and not just one of a commercial or a financial nature, might reasonably call into question their actual and perceived professional objectivity. It was recommended any such potential conflicts should be brought immediately to the attention of the members' superiors. The CFPM agreed and the appropriate procedural clarifications were made.

**Case Example (Interference):** The complainant alleged a senior officer had interfered with evidence that was part of an ongoing Military Police 'suspicious death' investigation into the sudden collapse and subsequent death of a young soldier, after several days on life support. Military police policy requires all such deaths on military property to be investigated as homicides until such time as the possibility of foul play is eliminated. The Unit Commanding Officer (CO) granted the family's request for the soldier's personal belongings immediately to avoid the protracted emotional trauma of further delay.

The Commission's investigation revealed the CO was aware of the local Military Police drug investigation at the time he directed the release of the dying soldier's belongings, but had not been aware of the impending Canadian Forces Investigation Service (CFNIS) "suspicious death" investigation. The CO should have deferred to the technical expertise of members of the Military Police in this investigation; and the CO should have raised any questions or concerns with the Military Police technical chain.

The Commission found interference had occurred and its recommendations helped to clarify the degree to which the chain of command should defer to the professional judgment of the Military Police conducting investigations. The Chief of the Defence Staff accepted the Commission's findings and recommendations. This led to a review of CF training to ensure a proper understanding, at all levels, of the concept and implications of interference with military police investigations.



## d) Military Police in the Civilian Community

**Introduction:** Public trust and confidence in the integrity of the Military Police within the civilian community (whether on or off DND property/ CF bases) is essential to their effectiveness.

**Case Example:** This case involved a conduct complaint questioning Military Police grounds for detention and search, and whether the Military Police had jurisdiction. A group of young people were waiting for a bus at a public transit stop outside the DND Headquarters building. A member of the Military Police was monitoring video surveillance of the area and saw what he/she suspected was an exchange of narcotics between two youths. As this appeared to have happened on DND property other members were called to detain and search all of the youths. The Deputy Provost Marshal, Professional Standards (DPM PS) investigation concluded the members acted appropriately.

During the course of the DPM PS investigation, the Commission decided to call a Public Interest Investigation based on e.g. the possibility that the youths' constitutional and statutory protections against unreasonable detention and search may have been violated; and to determine whether existing military police policies and procedures related to the detention, questioning and search of young persons are clear and consistent with the *Charter of Rights and Freedoms* and the *Youth Criminal Justice Act*.

It was found that members of the Military Police should have informed the youths of their right to counsel before searching them, particularly those subjected to a body search. Moreover, the DPM PS named only the highest ranking member involved in the incident but the other members involved should have been advised they too were potential subjects. Although the youths' constitutional rights were breached, the Commission found the members' mistakes were in good faith and it agreed additional training was the appropriate remedy. The Commission also supported the DPM PS decision to issue formal letters of apology to the families who were understandably upset about these events.

## e) Chain of Command/Supervisor Accountability

**Introduction:** Chain of command/supervisor accountabilities and responsibilities for timely, relevant management direction, guidance, supervision, policies, procedures and training are essential contributions to the integrity of work performed by military police.

**Case Example:** The case involved a complaint about the conduct of members of the Military Police involved in the investigation of a young person suspected in an alleged sexual assault at a cadet camp. The mother of the young person alleged the members used inappropriate and unlawful techniques in interviewing and investigating her son, violating his rights under the *Charter of Rights and Freedoms*; and that there was a lack of information provided to her and her son about the reasons for the interview and failure to subsequently notify them that no charge would be laid. She further objected to her son being labeled as a suspect in the Military Police databank despite a decision not to lay a charge.

In this case, the Commission convened its first Public Interest Hearing during which numerous concerns were identified such as the overall completeness, objectivity and diligence of the Canadian Forces National Investigation Service (CFNIS) investigation as well as the supervision and management of the investigation. There was also a failure to treat a member of the public professionally, particularly in respect of the correction of misinformation and notification concerning the final disposition of the investigation.

The Commission concluded neither the investigation nor the Crown Brief had been diligently or competently completed and the investigative failings were largely attributable to staffing, training, operating procedures and most particularly, supervision. The CFPM accepted the Commission's 24 wide-ranging recommendations including particularly in the area of supervision and training. Although a critical report in many respects, the hearing process made positive contributions towards addressing the root causes behind the conduct issues and thus lasting, broad-based improvements were made.

## f) Duty Owed to Complainants and Subjects of Investigations

**Introduction:** In the interests of fairness, openness and transparency, subjects and complainants in military police investigations should be provided with similar information e.g. notice of investigation results and intended remedial action.

**Case Example:** In this case, the Commission received a complaint that a Military Police member had refused to investigate allegations of perjury. The Deputy Provost Marshal Professional Standards (DPM PS), the CFPM's delegate, decided not to conduct an investigation, citing section 250.28(2)(a) of the *National Defence Act* which permits the CFPM to direct that no investigation of a conduct complaint should occur if the CFPM is of the opinion that the complaint is frivolous, vexatious or made in bad faith.

The Commission concluded the conduct was appropriate since the elements needed to investigate an offence of perjury were not present. However, the Chairperson also concluded the complainant should have been given a more complete explanation of past investigative activity by the Military Police and a description of the elements of the offence of perjury. The Commission recommended when a military police investigation is terminated, the complainant should be informed in a timely manner and should also be advised the reasons for its termination. As well, the CFPM should establish a higher threshold for determining whether a conduct complaint is frivolous, vexatious or made in bad faith. These terms must be used with caution and reserved for those rare cases that are truly lacking in substance and have insufficient grounds for action. The CFPM agreed with these findings.

**Note:** Other 'Duty to Complainants and Subjects of Investigations' cases reviewed by the Commission over the years have resulted in recommendations (for the most part accepted by the CFPM) such as: that Military Police be given clear direction that all complainants and subjects are to be provided with timely notice of investigation results unless operational exigencies dictate otherwise. Such contacts are also to be noted on the file with documented support of the supervisor. In addition, the person who is aware he/she is a subject of an investigation should generally be notified the case is concluded and he/she will not be charged criminally. The CFPM also made other improvements to the responsiveness and transparency of handling complaints e.g. confirmation of issues for investigation with complainants at the outset; and provision of greater clarity on proposed remedial action in cases where complaints are substantiated.

## g) Escort and Transport of Vulnerable (Mental Health) Detainees

**Introduction:** There is a need for practical, commonly understood military police protocols for the escort and transport of vulnerable (mental health) detainees. This is particularly important in that it is reasonable to expect greater numbers of military personnel with mental health issues, given the increased demands placed upon them in recent years, most notably the war in Afghanistan, as well as recent economic challenges and other realities.

**Case Example:** A CF member, who was receiving help from the Mental Health Services Unit, as well as from a psychiatrist and a social worker, was in a state of emotional crisis requiring hospitalization for a psychiatric assessment. Members of the Military Police were required to escort this individual to the emergency ward of the hospital. The individual submitted a complaint regarding humiliating and demeaning treatment by these members. This case is presented in greater detail later in this report and was referenced in the 2008 Annual Report.

In addition to its case-specific investigation, the Commission undertook a "best practices review" of police services in various Canadian jurisdictions concerning the issue of escort and transport of detainees under the provisions of a mental health act. Based on this review, the Commission recommended the CFPM, with the assistance of the Military Police Academy and any other appropriate outside agencies, study and develop specific protocols for members of the Military Police in their dealings with vulnerable (mental health) detainees, along with the appropriate military police training and orientation. Protocols should include jurisdictional and legislative considerations and a requirement to advise detainees of their rights pursuant to Section 10 of the *Charter of Rights and Freedoms*. The CFPM agreed to carry out such a study.

## h) Strengthened Policies and Procedures

**Introduction:** Over the past decade, the Commission's findings and recommendations (and subsequent positive responses by the CFPM) have helped to strengthen existing policies and procedures as well as create new ones where required.

**Examples:** The following are some of many examples where the CFPM created or enhanced policies and procedures:

- policy on the use of policing discretion in the laying of charges;
- policy stipulating timely completion of military police reports and officially recording reasons for any delays in the investigative process;
- policy reinforcing the need to actively offer service in either of the official languages at the earliest opportunity at the start of an investigation in accordance with the *Charter of Rights and Freedoms*, the *Official Languages Act*, and related common law and DND policy;
- policy on involvement in family and civil matters; and,
- policies on the conduct of surveillance and the conduct of interviews e.g. note-taking and report writing.



## HIGHLIGHTS



**On top:** Peter Tinsley, Chairperson from 2005-2009 and Louise Cobetto, Commission's first Chairperson from 1999-2004.

**Below:** Canadian Forces Provost Marshal Colonel Tim Grubb praises the Commission for its valuable contribution as an oversight body.



## I Introduction and Accomplishments

The following information highlights just some of the Commission's activities and accomplishments this year.

### Highlights of 2009

- On December 1, 2009 the Commission celebrated its tenth anniversary providing independent civilian oversight of the Military Police. This important milestone was honoured at an event during which the past Commission Chairperson, Mr. Peter A. Tinsley, CFPM Colonel Tim Grubb and Major General (Ret'd) Lewis W. MacKenzie, spoke. Among other items, the past Chairperson highlighted the critical role that police play in any democratic society and the social value of oversight to serving the public and maintaining Canadian's confidence that misconduct will be addressed in accordance with the rule of law; the CFPM commented the Commission had "*contributed enormously*"; and Major General (Ret'd) MacKenzie emphasized the importance of transparency and accountability while also recognizing that the Commission provides a "*very valuable service*".
- Continued to pursue the Commission's mandate in respect of complaints related to Military Police involvement in detainee transfers in Afghanistan; this included completing a Public Interest Investigation and a Final Report on one complaint, in addition to continuing to address ongoing documentation and legal challenges associated with the second set of complaints by Amnesty International Canada and the British Columbia Civil Liberties Association (BCCLA).
- Completed the investigation and Final Report on one extremely complex, costly, multi-year investigation of multiple complaints concerning white collar crime involving thousands of pages of documentation and other evidence such as tapes, as well as interviewing many witnesses.
- Collaborated in a working group with representatives of other Administrative Tribunals and developed common protocols for the website publication of tribunal decisions; and in partnership with three Administrative Tribunals, sought and obtained approval from the Federal Court to serve as intervenors in a specific case between an individual and a government agency involving privacy concerns.
- For the fourth year in a row, 100% of the Commission's recommendations in its Final Reports have been accepted by the CFPM.
- Two effective training and awareness initiatives were conducted: an operations workshop for investigators, legal staff, registry staff; and a security program seminar for Commission employees, particularly those providing dedicated support to the Afghanistan Public Interest Hearings.
- An information technology (IT) management review was carried out to assess the IT environment and the adequacy of systems and procedures. Additionally, a threat and risk assessment (TRA) was conducted focusing on current security requirements for handling classified information related to Public Interest Hearings as well as updating the findings from the earlier 2005 TRA.
- Visited 5 Canadian Forces bases across Canada to engage with key audiences about the Commission's mandate and activities as well as to respond to any concerns about the complaints process.

# II Monitoring and Investigations

## Overview

In 2009, the Commission continued to manage multiple, concurrent, complex investigations and it conducted high profile public interest investigations and hearings related to contentious issues such as complaints involving incidents in the context of overseas military operations.

The following table highlights, on a four year comparative basis, the Commission's monitoring and investigation activities.

Military Police Complaints Commission (Statistics 2009)				
	2006	2007	2008	2009
Conduct Complaints Monitored	35	30	42	43
Interference Complaints	2	0	0	1
Reviews	9	8	7	6
s.250.38 Public Interest Investigations/Hearings	3	2	3	0
General Files Open (Request for Information)	17	17	40	37
<b>Files Opened</b>	<b>66</b>	<b>57</b>	<b>92</b>	<b>87</b>
Interim Reports	4	8	7	8
Findings on Interim Report	24	34	27	38
Recommendations on Interim Report	11	35	9	19
Final Reports	11	19	3	15
Findings on Final Reports	39	53	6	53
Recommendations on Final Reports	9	42	1	23
Percentage of Recommendations Accepted	100%	100%	100%	100%
<b>Reports Issued</b>	<b>15</b>	<b>27</b>	<b>10</b>	<b>23</b>

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

# III Oversight Challenges

The following provides an overview of two major oversight challenges the Commission addressed in 2009.

## (a) Afghanistan Public Interest Cases

i) Since 2007, the Commission has been investigating a series of complaints regarding military police conduct in relation to the handling of detainees in Afghanistan. The first complaint was from Dr. Amir Attaran, a University of Ottawa professor, regarding the treatment of a particular group of detainees with apparent injuries in April 2006. The Commission conducted a public interest investigation and initially released its Final Report in April 2009, after receiving a Notice of Action from the CFPM in response to the Interim Report completed in December 2008.

ii) The Final Report was reissued in November 2009 following Commission negotiations with CF representatives which resulted in a significant reduction in the amount of information redacted from the report due to national security or confidentiality concerns. A more detailed summary of this case is provided later in the 2009 Annual Report.

The other complaints were from Amnesty International Canada and the British Columbia Civil Liberties Association (Amnesty/BCCLA). The first complaint was received on February 21, 2007, and alleged that detainee transfers by members of the Military Police were taking place without due regard to possible post-transfer mistreatment, such as torture.

On June 12, 2008, Amnesty/BCCLA filed an additional, two-pronged complaint, expanding the timeline covered by the first complaint, and presenting new allegations that members of the Military Police should have investigated the detainee transfers for breaches of national or international law. The Amnesty/BCCLA complaints are categorized as the 'transfer' complaints and the 'failure to investigate' complaint.

In May 2009, the Commission commenced the Public Interest Hearings into the transfer and failure to investigate complaints. Overview evidence was provided by CF witnesses on the CF and military police structure. Representatives from Amnesty/BCCLA also took the stand to detail the evidentiary foundation for their complaints. Hearings were then adjourned until the fall of 2009, to await full documentary disclosure before hearing from other witnesses and the subjects.

However, the Commission's progress with the Public Interest Hearings into the transfer and failure to investigate complaints was delayed by on-going challenges with gathering documents and by legal challenges in Federal Court to the scope of the Commission's mandate to investigate these complaints.

In terms of **document production**, the Commission faced difficulties obtaining documents from the Government in a timely manner. Document requests outstanding since November 2008, and even earlier, remained unanswered in October 2009, when the hearings were scheduled to resume. One reason advanced for the delay was the need to 'redact' these materials for sensitive information, that is, information that "could injure international relations or national defence or security" (s. 38, *Canada Evidence Act*).

The Government of Canada took the position that all of the outstanding requested material must be redacted before anything at all can be provided to the Commission. The result was that as of the scheduled start date for the hearings, the Commission had not received any new documents since its decision in March 2008 to hold Public Interest Hearings into the Amnesty/BCCLA complaints.

The Commission looked for practical ways to ensure it could efficiently access relevant information, not only to advance the Public Interest Hearings, but to ensure fairness for the subjects of these complaints. One option considered was the inclusion of the Commission on a list of agencies permitted by the *Canada Evidence Act* to receive sensitive information and to treat it accordingly. This would have allowed the Commission to review the material to identify relevant documents only and hence to speed up the redaction process. The Commission requested to be placed on this list; however, the request was denied by Government.

Another challenge related to **access to witnesses**. The Commission sought to pre-interview witnesses for the public hearing process, to facilitate the preparation of their testimony, and to address national security issues before the witnesses testified publicly. However, since the decision to proceed to Public Interest Hearings, and despite numerous requests, only one government witness agreed to speak to the Commission. However, the Commission was prohibited by the Government of Canada from interviewing this witness on the basis that any interview or testimony might result in the public disclosure of information protected by s. 38 of the *Canada Evidence Act*.

Ultimately, the difficulties with gathering documentary evidence, and the unfairness this created for the subjects of the Amnesty/BCCLA complaints when defending their reputations before the Commission, caused the panel presiding over the Afghanistan Public Interest Hearing to decide, on October 14, 2009, to adjourn the hearings until appropriate disclosure has occurred.

The Commission was also faced with **challenges to its jurisdiction**. The Government challenges had been pending before the Federal Court since 2008. On September 16, 2009, Justice Harrington ruled that the Commission lacked the jurisdiction to investigate and hold hearings into the 'transfer complaints'. This ruling was based on the grounds that detainee handling fell under the rubric of military operations resulting from military custom and practice, and was therefore excluded from the Commission's jurisdiction pursuant to s. 2(2) of the *Complaints About the Conduct of Members of the Military Police Regulations*. The Commission continues to have the jurisdiction to investigate and hold hearings into the failure to investigate complaint.

The Commission sought leave to appeal the September 16, 2009 decision of Justice Harrington. On December 4, 2009, the Federal Court of Appeal denied the Commission's request.

With the conclusion of the Government's challenges in the Federal Court to the Commission's jurisdiction over these complaints, one of the reasons for the October 14, 2009 adjournment of the Public Interest Hearing was removed. Since the adjournment on October 14, 2009, the Commission had received a small amount of additional disclosure from the Government of Canada.

On December 10, 2009, the Commission Panel convened a case conference to obtain an official update of the status of document production. At the conclusion of the case conference, the Commission Panel determined that all documents requested by the Commission should be provided by February 19, 2010, with a subset of more urgently required documents to be provided by January 22, 2010. In addition, March 22, 2010 was set as the date for the resumption of the Public Interest Hearing.

**Corporate Impacts of Afghanistan Public Interest Hearings:** The Commission's management of the high profile complaints related to military police conduct with Afghanistan detainees has generated a heavy, resource intensive workload and created other related impacts on Commission operations and administration. In addition to the need to create four new term positions in 2008 to assist on a temporary basis with workload demands, other impacts have included:

- strategic adjustments to already limited accommodation to provide the appropriate secure work and storage spaces;
- meeting increased media demands and increased requests for information including those related to Access to Information and Privacy (ATIP);
- the need to further strengthen registry/information management protocols to ensure orderly and secure management of a high volume of sensitive, complex evidence, and legal and other documents;
- employee training initiatives to ensure awareness of security policies, procedures, roles and responsibilities and other related requirements; and
- examination and implementation of secure information technology capabilities.

## **(b) Challenges to Transparency and Accountability (Privacy and Access to Information)**

In 2009 there were further developments associated with an issue which the Commission highlighted in the 2008 Annual Report related to the MPCC's practice of posting certain of its decisions in their entirety on its website. By way of background, those decisions relate to investigations which the Chairperson deems in the public interest (through investigations or hearings). In such cases, the entire decision is posted on the Commission's website with the full names of the complainants and the subjects except in specific cases such as those involving minors where initials or other vetting is used.

This public interest practice has not yet been accepted by the Office of the Privacy Commissioner based on its preference for random initials instead of actual names for all cases. The Office of the Privacy Commissioner is also of the view that informed public debate about, and confidence in, the integrity of tribunal proceedings are not hindered by non-disclosure of participants' names. However, the Office of the Privacy Commissioner does accept the Commission's practice of publishing depersonalized case summaries of conduct and interference complaints (those not deemed as public interest cases) on its website.

The Commission has a duty to ensure transparency and accountability in its processes and to serve the public's right to know. This is especially apparent in cases deemed in the public interest.

The Commission's mandate and obligations under governing legislation contemplates personal information can and will be used in Final Reports for a "consistent" purpose as per the *Privacy Act*. Moreover, the *National Defence Act* specifically requires the Chairperson to release a Final Report outlining the findings and recommendations following a Public Interest Investigation and/or Hearing.

**2009 Update:** In 2009, the Commission was a member of a working group comprising a number of other Administrative Tribunals which developed and recommended protocols to the Heads of the Federal Administrative Tribunals Forum (the Forum) regarding the posting of decisions on websites. These recommendations were accepted by the Forum in May 2009 after which a statement regarding the use of personal information in decisions and posting of decisions on websites was issued. Such action ensures greater commonality in the Tribunals' approaches and also addresses, in large measure, an earlier observation of the Office of the Privacy Commissioner regarding apparent inconsistency among the Tribunals' approaches.

The Forum recognizes the *Protocol for the Use of Personal Information in Judgments* approved by the Canadian Judicial Council in May 2005 provides helpful guidance in assessing what personal information is relevant and necessary to support the reasons for a decision and clearly recognizes the benefit of allowing decision makers to make that assessment.

The Forum further recognizes that the "web robot exclusion protocol" which is respected by commonly used Internet search engines to restrict the global indexing of specifically designated documents posted on websites, is an acceptable technical means for providing fair protection to personal information contained in administrative tribunals' decisions posted on their websites. The Commission has installed the "web robot exclusion protocol" on its website and follows the protocol established by the Canadian Judicial Council.

The Commission also joined with three other Tribunals (the Public Service Labour Relations Board, the Canadian Transportation Agency, and the Public Service Staffing Tribunal), and obtained, on November 24, 2009, intervenor status in a case before the Federal Court. This case involves important legal issues regarding an individual's challenge to the right of an independent, statutory tribunal (in this case the Public Service Commission) to report personal information in the course of conducting an investigation or rendering a report. This includes posting on the Internet based on the 'open court' principle.

## IV Impact on Military Policing (Specific Cases)

In this section of the Annual Report, an overview is provided of five cases of military police conduct which, while specific to the Commission's examination of individual complaints, may be of interest and application to the broader military community. Two of these cases represent the completion of extremely lengthy, complex, multi-year investigations; two other cases were in the process of being completed in 2008 and were referenced in the 2008 Annual Report.

### (a) Conduct Complaint from Dr. Amir Attaran: Conduct of the Task Force Afghanistan Military Police (Roto 1) at Kandahar Air Field, Kandahar, Afghanistan

**Introduction:** Pursuant to an Access to Information request, Dr. Amir Attaran (the complainant), a professor at the University of Ottawa, received copies of CF documents pertaining to the handling of detainees by CF Military Police in Afghanistan. Dr. Attaran's analysis of these materials led him to speculate about, and question, a number of issues related to the treatment of three detainees while in CF custody. Note: The Final Report from the Commission's Public Interest Investigation into this case is posted on the Commission's website.

**The Complaint:** Dr. Attaran alleged that there was a failure by the Military Police to:

- investigate the cause of injuries to the three detainees;
- treat humanely the three injured men in their custody;
- exercise care in safeguarding evidence and particularly the decision to transfer the injured men to the Afghan National Police ahead of a forensic medical examination to inquire into the nature of their injuries; and
- seize and inventory personal effects of at least one of the injured men, as is the standard practice.

Dr. Attaran requested that the Chairperson exercise his discretion pursuant to s. 250.38(1) of the *National Defence Act* and initiate an investigation and public hearing on the matter.



**Commission Review:** The Commission conducted an exhaustive, and complex, Public Interest Investigation, and completed its Final Report in April 2009, after receiving a Notice of Action from the CFPM in response to its Interim Report completed in December 2008. The Final Report was reissued in November 2009 following Commission negotiations with CF representatives which resulted in a significant reduction in the amount of information redacted from the report due to national security or confidentiality concerns.

There was added complexity to the Commission's review of this complaint in that a criminal investigation of this matter was already underway by the Canadian Forces National Investigation Service (CFNIS). Through the implementation of an innovative protocol negotiated with the CFNIS, the Commission was able to complete its investigation without jeopardizing the ongoing criminal investigation. Such a protocol may have useful application in other cases where administrative oversight processes must function in parallel with law enforcement investigations should there be other similar requirements.

**Based on its review of Dr. Attaran's complaints, the Commission found:**

- the allegation of inhumane treatment of the detainees by Military Police members was not substantiated;
- the allegation that the Military Police failed to seize and inventory the detainee's personal effects was not substantiated;
- there was a failure by Military Police to investigate the origins of the injuries of one of the detainees when it was their duty to do so;
- the failure to investigate the origins of the detainee's injuries was in no way related to the concealment of mistreatment of detainees by members of the CF, but rather it was attributable to a general failure, ultimately the responsibility of the Task Force Provost Marshal to:
  - understand the immutability of their policing duties and responsibilities even while deployed in an operational theatre;
  - recognize the role of the CFPM as the senior technical authority in respect of policing matters notwithstanding and independent of the operational chain of command, and to respect the directions issued by that office; and

- comply with the clear expectations of senior operational commanders regarding vigilance over the treatment of detainees to be performed by the Military Police.
- under the leadership of the Task Force Provost Marshal, the Military Police did succumb to perceived pressure from the chain of command for haste;
- without the knowledge or approval of the Task Force Commander, the Military Police failed to complete the mandated transfer procedures (e.g. conducting interviews and passing relevant documents and information to the Afghan police) with resulting potential prejudice to operational objectives; and
- the legislative initiatives of the late 1990's and other measures were not fully successful in structuring, positioning and resourcing the Military Police to enable performance at the required standard or to their full potential and thereby maintain the confidence of the Canadian community.

**The Commission recommended to the CFPM that further study should be undertaken of the status and role of the Military Police at all levels within the CF, with particular consideration of, and a view towards:**

- ensuring a new and more complete command and control structure is put into place;
- developing an education program for the leadership of the Military Police and the broader CF to ensure clear understanding of any changes in role and structure;
- reinforcing training for members of the Military Police in respect of their constant responsibilities for the performance of policing duties and functions as an essential part of, as opposed to distinct from, their duties as members of the CF; and
- resourcing the Military Police in terms of personnel and equipment to enable them to, in fact, provide a high level of professional policing services in support of the military justice system and military operations.

In the April 3, 2009 Notice of Action the CFPM expressed agreement with this recommendation and further advised that options for a more complete military police command and control structure were currently under consideration. As such, the Commission is awaiting a further response

to its recommendation from the Chief of the Defence Staff, at which time the Commission will issue an addendum to this report.

## b) Case: White Collar Crime – Fraud on the Government

**Background:** This extraordinarily complex case involved white collar crime and fraud on the government in the millions of dollars by a civilian employee of the Department of National Defence (DND) in western Canada. These offences related to serious contract irregularities for a significant number of major asset repair projects.

Following a DND audit investigation, a criminal investigation of this employee was undertaken by the CFNIS. As a result of the CFNIS investigation, the employee was arrested and charged with one count of fraud on the government and one count of breach of trust by a public officer under the *Criminal Code of Canada*. The employee pled guilty to one count of fraud on the government contrary to paragraph 121(1) (c) of the *Criminal Code of Canada* (government employee accepting an unauthorized benefit from anyone having dealings with that government) and received a conditional discharge.

**The Complaint:** The employee (hereinafter referred to as the complainant) made the following six allegations against the CFNIS investigation:

- malicious prosecution;
- discrimination and harassment;
- racial profiling;
- misleading the complainant's co-workers with biased opinions about his professional conduct and reputation;
- unprofessional conduct causing embarrassment to the complainant and his family; and
- great personal financial costs being incurred by the complainant and damage to reputation and to the complainant's health.

As the CFPM's delegate, the Deputy Provost Marshal Professional Standards (DPM PS) was tasked with investigating the complainant's allegations. Following the completion of the investigation, the DPM PS issued its report and findings. Complainant V then requested the Commission review this report in accordance with NDA section 250.31.

**Introduction to Commission Review:** Prior to its review of the complaint, the DPM PS investigation and report in this case became the subject of new complaints from two other individuals.

Due to the voluminous nature of the information associated with these three complaints, their related fact patterns, and in the interests of economy and efficiency, the Commission proposed, and the CFPM agreed, that the investigation of these three complaints should be conducted jointly. However, this significantly complicated and lengthened the timeline of this investigation which involved the review of thousands of pages of evidence and many recorded interview tapes, as well as interviewing multiple witnesses.

**Commission Review:** The Commission carried out a comprehensive and lengthy investigation and determined none of the complainant's six allegations were substantiated. However, the Commission did find the inaccuracies and imprecisions in various reports and other documentation prepared during the course of the CFNIS investigation, including documents presented to prosecutorial and judicial authorities, were the result of: investigator inexperience; deficient methodology used by the investigators to prepare interview summaries; and inadequate supervisory and quality assurance practices in the CFNIS Special Investigations detachment at the time.

The Commission recommendations, which were accepted by the CFPM, involved policy, procedures, training, and supervision matters. For example:

- the CFPM should review operational, financial and administrative policies with respect to: interviews, note taking, and the transcription of interviews; the adequacy of police supervision for all investigations; ensuring the CFNIS' ability to support appropriate major case management; and the adequacy of storage, maintenance and protection of file documentation and evidence practices;
- supervisors should be reminded of their ongoing responsibilities for supervision, guidance, direction and training of subordinate employees;
- Major Case Management training should be provided to CFNIS supervisors to ensure awareness of their responsibilities for the quality of investigative documentation; and to CFNIS investigators to ensure they are aware of best practices and evidentiary requirements when preparing documents; and

- training and refresher programs should be mandatory for all new military police investigators and for more experienced investigators to ensure skills are current; and the ability of investigators to meet course training standards should be documented on file.

The two other complaints pertaining to the DPM PS investigation and report involved multiple allegations generally concerning scope, completeness, objectivity and supervision. For example, it was alleged the DPM PS failed to effectively monitor and supervise the PS investigation; and the DPM PS investigation failed to interview CFNIS personnel including the primary investigator.

The Commission found some of these allegations were substantiated. For example, the Commission found that the DPM PS investigation was deficient in failing to interview personnel who supervised the CFNIS investigation.

**The Commission recommended, and the CFPM accepted, that:**

- direction should be provided to DPM PS investigators to clarify that complaint investigations can and should probe factors contextual to subject members' conduct, including the role of supervisory personnel and other contributing systemic factors; and
- DPM PS policies and procedures should be reviewed and revised, as necessary, to provide for a systematized approach to complaint investigations consistent with relevant principles of police major case management.

**c) Case: Complaint regarding the Conduct of a CFNIS Investigator**

**Introduction:** Through its review of this complaint, the Commission identified the opportunity for the CFPM to use the commendable manner in which a CFNIS investigator handled this file, including matters of investigation planning and record keeping, as a case study for training purposes.

**The Complaint:** This complaint arose from a service offence investigation against the complainant in respect of a credit card fraud by the complainant against a friend and fellow service member. Following the investigation which was led by a member of the CFNIS, the complainant

was charged with a number of offences under the *National Defence Act*. At the court martial, the complainant pled guilty to two counts of committing an act of a fraudulent nature; the remaining charges were withdrawn or not proceeded with by the prosecution.

At the time of the offences and the investigation, the complainant was suffering from mental health issues, which had recently been exacerbated by a break-up in marriage and other professional and personal events. At two points during the investigation, the complainant was involuntarily committed to hospital under the provincial *Mental Health Act*.

**The complainant alleged the investigator:**

- executed a search warrant on the complainant's personal effects while the complainant was in hospital;
- refused to interview the complainant more than once and generally failed to probe certain personal factors which in the complainant's view led him/her to commit the offences; and
- should not have charged the complainant given his/her personal circumstances and alleged motive for committing the offence (to assist family who were allegedly suffering hardship) as well as the fact that the friend and colleague who was the victim of the credit card offences requested that the complainant not be charged.

The complainant was seeking a written apology as well as reimbursement and compensation for pain and suffering due to the Force's alleged negligence in this matter.

**Commission Review:** The Commission found the complaints were unsubstantiated and the CFNIS investigator showed the appropriate sensitivity and consideration for the complainant's personal circumstances. A number of the mitigating factors cited by the complainant in his/her complaint were put before a court martial and resulted in at least some degree of leniency in sentencing. In terms of the search warrant, the Commission noted it clearly disclosed the location of the search and was duly authorized. The search was not conducted in the presence of the complainant, nor would the mental or emotional state of the complainant be independently relevant to the validity of this type of search.

Regarding the decision to lay charges, (which was approved by the CFNIS chain of command) the offences in question were serious and

the enforcement discretion which could be exercised in favour of the complainant was quite limited. The complainant's friend did request the complainant not be charged, however, the financial institution which had issued the credit cards and reimbursed the complainant's friend, favoured prosecution of the complainant and so advised the CFNIS investigator.

Ultimately, the Commission recommended the CFPM use the commendable manner in which the CFNIS investigator handled this file, including matters of investigation planning and record keeping, as a case study for training purposes. The CFPM accepted this recommendation.

#### **d) Case: Conduct Complaint regarding the Escort and Transport of a Vulnerable (Mental Health) Detainee by Members of the Military Police**

**Introduction:** An overview of elements of this case was included in the Commission's 2008 Annual Report. However, with the completion of the investigation in 2009, it is now presented in full, along with the findings and recommendations. It is reasonable to expect that the number of instances involving vulnerable (mental health) individuals will be an increasing concern given military deployment, economic and other realities.

**The Complaint:** A CF member (the complainant) who was receiving help from the Mental Health Services Unit, as well as from a psychiatrist and a social worker, was in a state of emotional crisis requiring hospitalization for a psychiatric assessment. Members of the Military Police were required to escort this individual to the emergency ward of the hospital. The complainant objected to the manner in which he/she was treated by these members who:

- ignored the complainant's right to be dealt within a manner using the lowest level of restraint possible;
- did not respect the complainant's privacy as they carried out their actions in full view of patients and staff adding to the humiliation;
- treated the complainant like a prisoner or criminal and used unprofessional language during the body search prior to transport; and
- composed a report which contained information concerning the complainant's referral for a mental health assessment which was given to the base Commanding Officer; the complainant contended

a violation of privacy rights as it involved the disclosure of confidential medical information.

**Commission Review:** The Commission found that members of the Military Police:

- acted on a misapprehension of facts due to either a miscommunication or misinterpretation of background facts relevant to the decision to handcuff the complainant; while they could have used discretion and not handcuffed the complainant, they did not breach any section of the *Military Police Code of Conduct*;
- did the best they could under the circumstances to respect the complainant's privacy; and
- did not use an unprofessional manner and language nor did they improperly disclose private medical information.

As a result of a "best practices review" by the Commission of police services in various Canadian jurisdictions concerning the issue of escort and transport of vulnerable detainees under the provisions of a mental health act, the Commission recommended the CFPM, with the assistance of the Military Police Academy and any other appropriate outside agencies:

- study and develop specific protocols for members of the Military Police in their dealings with vulnerable (mental health) detainees;
- review regional and jurisdictional legislation, resources and practices, as well as consider important issues abroad, to ensure protocols are appropriately responsive; and
- ensure that protocols include a requirement to advise mental health detainees in their custody of their rights pursuant to Section 10 of the *Charter of Rights and Freedoms*.

The CFPM has agreed to carry out such a study.

#### **e) Case: Active Offer of Policing Services in Either Official Language**

**Introduction:** An overview of elements of this case was included in the Commission's 2008 Annual Report. With the completion of the investigation in 2009, it is now presented in greater detail, along with the findings and recommendations, and action already taken by the CFPM.

**The Complaint:** The complainant submitted allegations concerning the conduct of a CFNIS investigation of him/her and these were examined in an investigation by the DPM PS. Following receipt of the DPM PS report, the complainant's lawyer submitted a request on the complainant's behalf for the Commission to review the complaint. The complainant made eight allegations associated with various deficiencies in how the CFNIS investigation was carried out and in particular, associated with appointing a unilingual English investigator to conduct the investigation when the complainant's first official language is French. It was alleged that in addition to not observing the complainant's legal and language rights, the CF initially attempted to lay charges against him/her in his second language.

**Commission Review:** The Commission found the allegations concerning the deficiencies in how the investigation was carried out were not substantiated. However, the Commission found there was a failure of the investigator to make an active offer of policing services in either English or French. It would have been beneficial (and a "best practice") at the outset of the investigation to determine if a French speaking or bilingual investigator should have been assigned.

Units within the Canadian Forces are designated either bilingual or unilingual. The *Charter of Rights and Freedoms*, the *Official Languages Act*, related common law and DND policy indicates that military police are required to make an active offer of policing services in either French or English. Certain Military Police services are to be available in both official languages. Moreover, officers and employees of all federal institutions have certain "language of work" rights to communicate in their designated official language. DND has a duty to ensure that work environments are conducive to the use of both official languages and to accommodate such use by its officers and employees.

The CFPM agreed with the Commission's findings and recommendations, and advised a Policy Advisory had been issued amending existing policy to ensure respect for English and French as the official languages of status used in all Federal institutions, particularly with regard to the administration of justice.



## Outreach and Collaboration

In 2009, the Commission continued its outreach and collaborative initiatives with the Military Police community, the military chain of command and other organizations within and outside government such as the legal community. These initiatives enable the Commission not only to share information regarding its responsibilities but also regarding rights and entitlements based on the premise that: "If rights are not known, they do not exist." In addition, the Commission is able to gain a further perspective from these groups on a range of matters associated with its mandate for civilian oversight.

### *Visits to Canadian Forces Bases across Canada*

On an annual basis, the Commission meets with three primary audiences at CF bases across Canada in order to increase awareness of its mandate and activities, as well as to respond to any concerns about the complaints process. **These audiences are:**

- Members of the Military Police who are most affected by the process whether as subjects of complaint or as potential complainants;
- The military chain of command, which relies on the services of members of the Military Police in the maintenance of military discipline and exercises command over them, but which must not interfere with police investigations; and
- Those who may interact with the Military Police because they live, work or pass through a CF base. The Commission's connection to this group is often made through the Executive Directors and staff of the Military Family Resources Centres and Housing authorities at each base.

During 2009, representatives of the Commission visited 5 Canadian Forces' bases making formal presentations (including often multiple presentations at individual bases) and having informal discussions with attendees at the following locations across Canada:

- Winnipeg, Manitoba
- Borden, Ontario
- Kingston, Ontario

- Ottawa, Ontario
- Gagetown, New Brunswick

Bases are selected from logistical and geographic aspects to help ensure the broadest access to these information sessions but in particular, consideration is given to respecting and accommodating the demands associated with the significant operational realities at these bases.

The participants in the 2009 information sessions provided the Commission with positive feedback on the value of the presentations including the case examples used and on the clarity of responses the Commission provided to questions. Some useful suggestions were also made e.g. to provide a list of topics to be covered in the presentation to potential participants ahead of time so that shift workers not able to attend could still have the opportunity to submit questions; and to have the Commission's presentation made at additional venues such as the CF Military Police Academy in order to reach an even greater number of members of the Military Police across Canada.

Through dialogue with participants, the Commission continued to broaden and reinforce its appreciation and understanding of some of the operational challenges faced by the Military Police community. The Commission very much appreciates the efforts of the many individuals who organized, supported and participated in its 2009 Base Outreach activities.



The Military Police Complaints Commission hosts the 2009 CACOLE Conference in Ottawa.

## **Collaborative Working Relationships**

In 2009, the Commission continued its ongoing discussions with the CFPM and senior Military Police staff to address and resolve issues and even further strengthen the complaints resolution process. It also continued its mutually beneficial working relationships with other government departments and agencies, professional associations and intra-government affiliations.

## **Professional Associations**

The Commission participated with professional associations such as the Canadian Association for Civilian Oversight of Law Enforcement (CACOLE) and the Canadian Bar Association (CBA), Military Law Section.

CACOLE is a national non-profit organization of individuals and agencies involved in the oversight of police officers in Canada. It is dedicated to advancing the concept, principles and application of civilian oversight of law enforcement throughout Canada and abroad. CACOLE is recognized worldwide for its oversight leadership.

The past Chairperson of the Commission Peter A. Tinsley, served as the 2009 President of CACOLE. The 2009 CACOLE meeting was hosted by the Commission in Ottawa with the theme "*Civilian Oversight of Law Enforcement: Where is it going? Where should it be going?*" Considerable planning and organizational efforts were dedicated by the past Commission Chairperson, Commission Member Roy Berlinquette, as well as other staff, to supporting the conference. Approximately one-third of the average 150 delegate attendance at CACOLE meetings is international.

In addition, the Commission's Senior Counsel prepared a paper entitled "Let's Be Clear about "Clear and Convincing: A Postscript" which was included in the package of conference papers available to conference participants. This paper updated an earlier version of the document presented to the 2007 CACOLE conference regarding the standard of proof applicable in matters of police discipline, essentially, that in all non-criminal proceedings which include police discipline adjudications, the civil standard of proof generally applies. The update reflects the Supreme Court's

recent clarification that there is only one civil standard of proof known to Canadian common law, proof on a balance of probabilities, and neither the seriousness of the allegations, nor of the proceeding's consequences, mandates any special scrutiny or weighing of the evidence.

**The Canadian Bar Association (CBA)** is a professional, voluntary organization which represents some 35,000 lawyers, judges, notaries, law teachers, and law students from across Canada. Through the work of its sections, committees and task forces at both the national and branch levels, the CBA is seen as an important and objective voice on issues of significance to both the legal profession and the public. The General Counsel and the Senior Counsel of the Commission were members of the CBA, most notably the Military Law Section.

**First International Workshop on Independent Civilian Oversight, Jordan – August 8 and 9, 2009:** Mr. Peter Tinsley participated in this Workshop at the invitation of the United Nations Development Programme (UNDP), Iraq. The purpose of the Workshop was to initiate national dialogue on establishing civilian oversight in Basra, one of Iraq's largest governorates. Speaking on behalf of both the Commission, and as President of CACOLE, the past Chairperson presented the Canadian experience in oversight (including challenges and opportunities). The past Chairperson also moderated a panel discussion entitled Addressing Discrimination – The Role of Civilian Oversight Institutions. Workshop participants included senior government representatives, Iraqi Police Services, Ministry of Human Rights, non-governmental organizations, and national/international experts in human rights, community policing and civilian oversight.

**First International Seminar on Oversight Evaluation and Quality Performance of Social Defense Systems – Brazil – November 23 and 24, 2009:** The objectives of the seminar were to share international experiences and concepts regarding policing and ensuring public safety in a democratic society. Speaking on behalf of the Commission and as President of CACOLE, the past Chairperson of the Commission provided seminar participants with an overview of the Canadian experience in oversight (including challenges and opportunities). Other countries participating included: Britain; Portugal; Spain; and Germany.

**The Association for Civil Rights in Israel (ACRI)** consulted the Commission in connection with the ACRI's efforts to improve military investigations in Israel. Specifically, the Commission responded to ACRI's query regarding the Commission's policy concerning the publication of its complaints' reports. ACRI is Israel's oldest and largest human rights organization and the only one that deals with the entire spectrum of human rights and civil liberties issues in Israel and the occupied territories.

### ***Intra-Government Affiliations***

The Commission continued to participate in co-operative intra-government affiliations through its membership in a variety of Small Agencies' initiatives. These include the Heads of Federal Agencies, the Small Agencies Personnel Advisory Group, the Small Agencies Financial Action Group, the Small Agency Administrators Network and its Burden of Reporting Working Group, the Shared Services Working Group, and the Association of the Independent Federal Institutions' Counsel.



Group photo from the First International Workshop on Independent Civilian Oversight, Jordan – August 2009



## **I** Human Resource Management

Throughout 2009, the Commission continued to demonstrate stewardship excellence in the effective and efficient management of its human, financial and assets resources.

In 2009, the Commission staffed key positions (on a full-time, part-time or secondment basis) with subject matter experts to provide needed support for its operations in the areas of legal services, financial services, communications and administration. The Commission also works with Human Resources to identify innovative ways to staff efficiently, such as using pools, student bridging mechanisms and other measures.

In addition, the Public Service Commission commented positively, in the 2008-09, Staffing Management Accountability Framework (MAF) Performance Summary, that the Commission's human resources and staffing plans demonstrated a commitment to employment equity principles.

**Awards and Recognition Program:** During National Public Service Week in June 2009, the past Chairperson hosted an awards and recognition appreciation ceremony at which a number of employees were publicly recognized for activities such as contributions to workplace well-being and high quality work achievement.

**Security Program Workshop:** The Commission developed and delivered a Security Program workshop for employees. The purpose of the workshop was to ensure and further reinforce compliance with Government Security Policy and Standards and to ensure a common understanding of security roles, responsibilities and accountabilities within the Commission generally, and more specifically, for those Commission personnel involved in Public Interest Hearings.

**Operations Workshop:** A two-day operations workshop was held for Commission lawyers, investigators, registry staff and other operational staff to review current operational practices and procedures; to examine "best practices", and other professional standards which could be adapted to the Commission to even further enhance the effectiveness of its performance

of oversight; and to examine opportunities to streamline and/or simplify practices and procedures while still maintaining the appropriate evidence and document management control and other security protocols.



The staff of the Military Police Complaints Commission.



**Threat and Risk Assessment:** A threat and risk assessment (TRA) was conducted consisting of two phases: the first phase focused on all security requirements associated with handling classified information for the Afghanistan Public Interest Hearing; this included Personnel, Physical, Information Technology and Information Management Security as well as Secure Communications. The second phase focussed on updating the findings from an earlier threat and risk assessment conducted in 2005.

### Results of 2008 Public Service Employee Survey:

The Public Service Employee Survey is an employee opinion survey of all Federal public servants about employee engagement, leadership, workforce and workplace conditions in the public service at large, in their organizations and in their work units. All employees of the Commission were invited to participate in this survey which was conducted between November 3 and December 5, 2008. The Commission was part of the Judicial Portfolio (JP) comprised of 7 organizations including e.g. Canadian Human Rights Tribunal, Office of the Commissioner for Federal Judicial Affairs, and the Canadian Forces Grievance Board.

The Commission's participation rate was 100% of current employees (compared to 85.7% in 2005). **The following are other highlights of the survey's results for the Commission:**

- Overall, Commission results were much higher than the JP average e.g. 94% of MPCC employees said they liked their job compared to JP of 87%;
- 94% of Commission employees said they have confidence in their senior leadership and that senior management makes effective and timely decisions (JP 72% and PS 64% respectively);
- 80% of Commission employees responded that they are satisfied with their career progress in the Public Service versus JP 52% and PS 42%;
- Every respondent at the Commission felt that people in the organization readily share information with others versus JP 81% and PS 60%. They know how their work contributes to the achievement of their organization's goals; and they believe every member within their work unit, regardless of race, colour, gender or disability, is accepted as an equal member of the team.

## III Finance

**Financial Management:** The Commission continued to effectively plan, manage and control its budget and expenditures to meet operational requirements as well as legislative and central agency requirements such as timely, accurate external financial reporting. In 2009, the MPCC received a Grade A in that it submitted 100% of its financial statements on time and accurately.

**Operational Funding:** Through Supplementary Estimates the Commission received an additional \$1.2 million for fiscal year 2008-09 with total funding authorized over the three year fiscal period ending 2010-11 of approximately \$5 million. These additional resources are to address the major financial and operational requirements related to significantly increased workload associated with the conduct of a large, complex and high profile Public Interest Hearing as well as the Federal Court challenges. This one-time funding is not part of the Commission base and it is accounted for separately within the Commission's annual input to the Government's Public Accounts.



General Counsel, Julianne Dunbar during Outreach visit in Ottawa, Ontario.

## 5 YEAR BUDGET AND EXPENDITURE COMPARISON

The Commission continues to demonstrate sound financial stewardship of its finances. For the past three years, the Commission has been successful in working effectively with an overall budget of \$3.4 million. During the year the Commission improved financial management practices by increasing financial planning and review processes, conducting rigorous financial analysis through risk assessments and enhancing the timeliness of financial reporting to the Executive Committee. It should be noted changes in the pace of the Afghanistan Public Interest Hearing occasioned by on-going legal and documentation challenges, as well as various Commission administrative and operational efficiencies, have decreased expenditures from original forecasts for the year.

In thousands of dollars							
Fiscal Year	Allocations		Expenditures				
	Main Estimates	Total Authorities	Operations	Salaries	Employee Benefits	Total Expenditures	Unspent
2009-2010	5,973*	6,853*	3,248	1,507	330	5,085**	1,768
2008-2009	3,431	4,882*	2,159	1,468	240	3,867	1,015
2007-2008	3,434	3,489	2,002	1,100	295	2,909	580
2006-2007	3,416	3,539	1,443	1,186	208	2,837	702
2005-2006	4,176	4,029	1,195	1,270	238	2,703	1,326

\* Includes funding for the Public Interest Hearing/Federal Court

\*\* Expenditures for 2009-2010 are estimated expenditures for the fiscal year ending March 31, 2010

## III Compliance and Accountability

**Corporate Reporting:** In 2009, the Commission continued to comply with reporting requirements to Parliament and central agencies through the preparation and submission of strategic documents such as the Report on Plans and Priorities; the Departmental Performance Report; and Public Accounts as well as reporting on compliance with other legislative requirements such as the *Official Languages Act*.

**Participation in Central Agency Horizontal Audits:** The Commission was one of a number of agencies included in the Office of the Comptroller General's horizontal audits on Travel and Hospitality in Small Departments and Agencies. Relatively minor administrative issues were identified with respect to pre-authorization, authorization and the adequacy of reference documentation; these have been addressed through procedural changes within the Commission's management control framework and the TBS has been so advised. Additionally, procedural changes were also implemented in 2009 to address the administrative findings of two 2008 horizontal audits on contracting practices and expenditure controls.

**Information Technology Management Review:** An information technology (IT) management review was conducted to assess the IT environment and related management framework, as well as the adequacy of processes and procedures, to ensure optimal support of Commission operations and compliance with government policies and standards. Items identified for further action included an update of the Business Continuity Plan, and examining options to modernize the file management system for greater compatibility with other existing systems. Such work is underway. Work has also been initiated to apply the existing evergreen strategies for information technology assets to all other Commission physical assets.

**Privacy and Access to Information:** The Commission continued to experience a steady, high volume of requests made under the *Access to Information Act and Privacy Act* (16 in 2009, and 21 in 2008). The thirty-day response time limit continued to be met for the majority of these requests.

**Official Languages:** As of December 2009, 100% of the individuals met the linguistic requirements of their positions and the Commission continues to support language training to help staff maintain and/or enhance their linguistic capacity in the second official language for personal and career development.

## IV Communications

The Commission successfully completed all necessary requirements and transformed its Website to be consistent with the Treasury Board's Common Look and Feel Standards for the Internet. It also effectively met significantly increased media and other demands from within and outside government for information related particularly to its high profile Public Interest Investigations and Hearings. Throughout 2009, the Commission provided timely, open press releases, backgrounders and other documents, including updates on its website and individually tailored responses, as required.

## PART 5 – CONCLUSION



The past decade has seen the Commission's positive progress and evolution as a respected civilian oversight body in Canada and internationally. As we enter a new decade, the Commission must reflect not only on its achievements to date, but also on the future.

This means continuing to provide strategic oversight leadership to meet the service needs of our clients – the complainants and the subjects of conduct and interference complaints, the Military Police organization as a whole, and the broader CF community – as well as the expectations of the Canadian public – and continuing to address and manage many other expected operational and corporate challenges.

The Commission remains confident in its ability to continue to help strengthen military police operational policies, procedures, training and management practices, where required, through the findings and recommendations from its comprehensive reviews and investigations.

In doing so, we will continue to work collaboratively with the national defence leadership, the CFPM, the chain of command, and the Military Police community, as well as partners and stakeholders, to fulfill the Commission's mandate i.e. to promote and ensure the highest standards of conduct of Military Police in the performance of policing duties and to discourage interference in any military police investigation.





## Biography of the Acting Chairperson

### Glenn Stannard

Mr. Glenn Stannard was appointed as Acting Chair of the Military Police Complaints Commission on December 11, 2009.

Born, raised and educated in Windsor, Ontario, Mr. Stannard served with its city police service for 37 years. During this time, he was promoted through the ranks and has worked in all divisions of the service. In August 1995, Mr. Stannard was promoted to Deputy Chief of Police, Administration. His dedication to the city and its citizen was recognized in 1999 with his appointment as its Chief of Police. Mr. Stannard is also a Past President of the Ontario Association of Chiefs of Police. In 2003, he was invested into the Order of Merit of the Police Forces by the Governor General and received the Queen's Jubilee Award in 2005.

During his 9 years as Chief of Police with the Windsor Police Service, he had a legislative responsibility under the *Police Service Act* of Ontario (PSA) to oversee, administer and be responsible for the Public Complaints Process. Responsibilities included the oversight of the Professional Standards Branch that handled the receiving, processing, investigating and resolution of all public complaints against Windsor Police officers covered under PSA. Additional duties included addressing appeals returned by the civilian oversight body, the Ontario Civilian Commission on Police Services.

Mr. Stannard was also a prosecutor and hearings officer under the authority of the *Police Services Act*. This adjudicative responsibility dealt with police act charges against police officers under the PSA.



## Biographies of Commission Members

### Roy V. Berlinquette MPCC Member

Roy V. Berlinquette, a recognized team builder with 36 years of public service with the Royal Canadian Mounted Police (RCMP) emerged from an entry-level position to senior executive levels in corporate, operational and administrative areas to Deputy Commissioner of the North West Region.

Mr. Berlinquette has acquired a wealth of knowledge and experience in his numerous years of dealing with government officials at Municipal, Provincial and Federal levels as well as positive relations at the international level.

His recent accomplishments include being a six year member of the Office of the Oversight Commission on the Reform of the Police Service of Northern Ireland and researcher and co-author of the Jerusalem Old City Security Initiative. He is principal of a consulting company specializing in risk management, comptrollership and investigations in Ottawa.

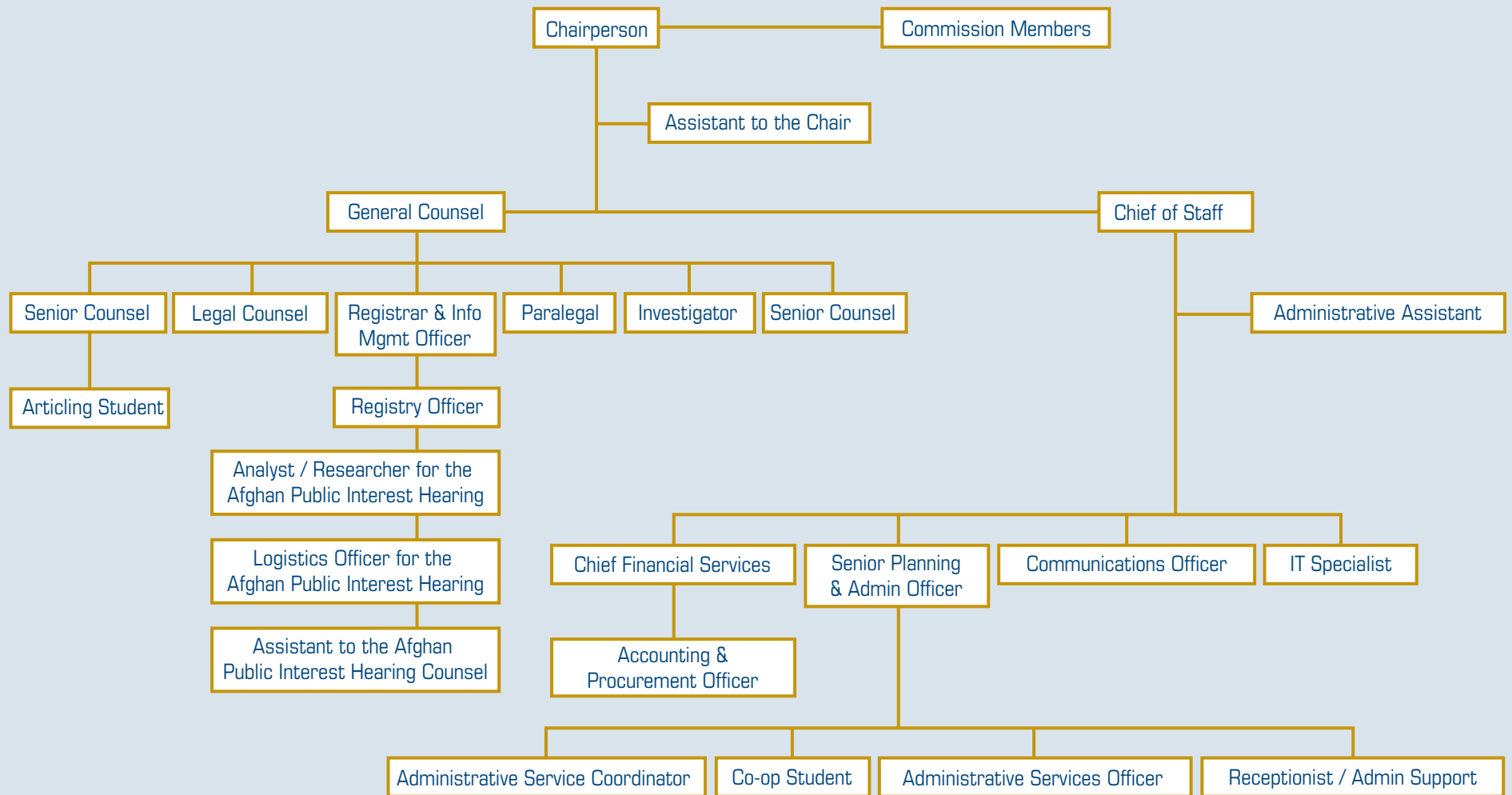
### Louis Bélanger MPCC Member

Louis Bélanger is a Professor of International Relations in the Department of Political Science at Université Laval, Quebec City. From 2000 to 2005, Professor Bélanger was the Director of Université Laval's Quebec Institute for Advanced International Studies (HEI).

He is the author of numerous publications on Canadian foreign policy, comparative foreign and trade policy, inter-American cooperation, and the politics of secession. In 1998, he was guest editorialist for international affairs for the newspaper *Le Devoir*.

He has also been founding President of the Canadian chapter of the International Studies Association (2001-2002) and Editor of the academic quarterly *Études internationales* (1998-2000). Professor Bélanger held visiting positions at Duke University (Durham, NC), at SciencePo-Paris (Centre d'études et de recherches internationales), at the Woodrow Wilson International Center for Scholars, in Washington, and, as a Canada-U.S. Fulbright Visiting Scholar, at the Paul H. Nitze School of Advanced International Studies (Johns Hopkins University). He is also a member of the Advisory Council on National Security. A graduate from Laval (Ph.D., 1996), Louis Bélanger also pursued Slavic Studies at the University of Ottawa.

## Current Organization Chart



Note: An additional three (3) positions have been added in support of the Afghanistan Public Interest Hearings