



Military Police
Complaints
Commission

Commission d'examen
des plaintes concernant
la police militaire



A **New** Decade of Oversight

Annual Report 2010

Canada

Acknowledgement:

The Commission would like to acknowledge the Canadian Forces' Combat Camera for their images used in the production of this Annual Report.

For an electronic version of this publication, please consult the MPCC Web site at www.mpcc-cppm.gc.ca.

© Her Majesty the Queen in Right of Canada, represented by the Military Police Complaints Commission, 2011.

Catalogue No. DP1-2010E-PDF
ISBN 978-1-100-17865-3

Letter of Transmission to the Minister

March 31, 2011

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 2010.

In this Annual Report, you will find a detailed discussion of all significant aspects of the Commission's activities during 2010, 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,
Chairperson

Table of Contents

CHAIRPERSON'S MESSAGE.....	2
Part I – OVERVIEW.....	4
I Military Police Complaints Commission.....	4
II Mandate and Mission.....	4
III Organizational Background.....	5
IV Canadian Forces Provost Marshal and Deputy Provost Marshal, Professional Standards.....	5
V The Military Police.....	6
VI Conduct Complaints.....	6
VII Interference Complaints.....	8
VIII Public Interest Investigations and Hearings.....	8
Part II – OVERSIGHT 2010.....	9
I An Increasingly Public Profile.....	9
II Highlights of Activities and Accomplishments.....	11
III Monitoring and Investigations.....	12
IV Oversight Challenges.....	13
a) Afghanistan Public Interest Hearing – Amnesty International Canada and British Columbia Civil Liberties Association.....	13
b) Canada Evidence Act, Schedule of Designated Entities.....	16
V Other Judicial Review Cases.....	16
VI Legislative Renewal.....	17
VII Impact on Military Policing (Case Summaries).....	19
VIII Outreach and Collaboration.....	22
Part III – STEWARDSHIP EXCELLENCE.....	24
I Human Resource Management.....	24
II Finance.....	26
III Compliance and Accountability.....	27
IV Communications.....	27
Part IV – IN CONCLUSION.....	28
Part V – ANNEXES.....	29
I Biography of the Chairperson.....	29
II Biography of Commission Members.....	29
III Current Organization Chart.....	30
IV How to Reach the Commission.....	31

CHAIRPERSON'S MESSAGE



The 2010 Annual Report for the Military Police Complaints Commission (the Commission) marks the beginning of a new decade of oversight. In the ten years since it was established on December 1, 1999, the Commission has evolved under the leadership of previous Chairpersons, Ms. Louise Cobetto and Mr. Peter Tinsley, fulfilling its legislated role to provide independent civilian oversight of the Canadian Forces Military Police. In 2010, the first year of its second decade, the Commission has continued to effectively manage a significant, diverse and complex workload.

I was honoured to have been appointed Chairperson on May 14, 2010 and to have the opportunity to provide the necessary leadership, guidance and support to help the Commission address new challenges, as well as ongoing Commission business. In assuming this role, I am contributing the extensive knowledge and experience gained from my 38-year policing career, the last 13 years of which I served as Chief and Deputy Chief of the Windsor Police Service. During my career, I have fulfilled leadership and management roles and responsibilities for operational and administrative policing issues, and gained valuable experience in civilian oversight processes and procedures.

This year, in addition to investigating conduct and interference complaints, we have been busy with the ongoing Public Interest Hearing relating to what has been categorized as the “failure to investigate” complaint by Amnesty International Canada and the British Columbia Civil Liberties Association. This complaint alleged that members of the Military Police failed to investigate Canadian Forces Commanders having authority for transferring detainees to the Afghanistan authorities in the face of a known risk of torture.

As Commission Chairperson, I assumed the role of Panel Member for the Public Interest Hearing. In this position, I share the Hearing Officer role with my fellow Commission member Mr. Roy Berlinquette.

I have very much appreciated Mr. Berlinquette’s participation in the Public Interest Hearing and other operational files. I also value the contributions of Mr. Louis Bélanger, the third member of the Commission, who has assisted in advancing the Commission’s mandate.

Details on the Public Interest Hearing, conduct and interference complaint case summaries, and the Commission’s other operational and corporate activities, are provided within this report. In this regard, I would like to compliment and commend Commission staff, as well as specialized external subject matter experts, for their hard work and dedication during a very hectic and challenging year.

In 2010, the Commission was provided with opportunities to reach out and work with our partners, stakeholders and the Government. Specific mention must be made of the excellent working relationship with the Canadian Forces Provost Marshal, Colonel Tim Grubb, the Deputy Provost Marshal, Professional Standards, Commander Jacques Ellyson and the Professional Standards staff.



A New Decade o

In addition, our outreach visits with Military Police members at Canadian Forces bases and Family Resource Centres across Canada have proven to be invaluable. I might add that, for the first time, the Commission was invited to make presentations regarding its mission, mandate and supporting complaints procedures to specific course participants at the Canadian Forces Military Police Training Academy. I am very pleased that our presentations at the bases and the Training Academy were so well-received.

Commission Members and staff are proud to present this Annual Report because it is an important reflection of our accomplishments and our ongoing commitment to operational and administrative excellence. We will continue to demonstrate this commitment in the coming year and we look forward to new challenges and opportunities to do so.

Glenn Stannard,
Chairperson





PART I OVERVIEW

I. Military Police Complaints Commission

The Military Police Complaints Commission (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 achieved through an amendment to the *National Defence Act (NDA)*, creating a new Part IV which sets out the 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.”



Photo credit: www.combatcamera.forces.gc.ca © 2010 DND-MDN Canada

II. Mandate and Mission

Mandate: The Commission reviews and investigates complaints concerning Military Police conduct and investigates allegations of interference in Military Police investigations. The Commission 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. Organizational Background

The Commission is one of eight distinct, but related, organizations in the National Defence Portfolio. While it reports to Parliament through the Minister of National Defence, the Commission is both administratively and legally independent from the Department of National Defence (DND) and the Canadian Forces (CF).

The Commission is not subject to direction from the Minister in respect of its operational mandate. The Commission is, however, part of the federal public administration and subject to federal legislation and policies, such as the *Financial Administration Act*, the *Official Languages Act*, the *Access to Information and Privacy Acts*, and the *Public Service Employment Act*.

IV. The Canadian Forces Provost Marshal and the Deputy Provost Marshal, Professional Standards

The Commission has a crucially important, collaborative working relationship with the Canadian Forces Provost Marshal (CFPM) and the Deputy Provost Marshal, Professional Standards (DPM PS).

The CFPM provides direction to all Military Police Branch members with regards to police policy and procedures, professional standards, security, equipment and training, as well as Military Police Branch traditions and activities.

Five Deputy Provost Marshals/directorates report to the CFPM, including the DPM PS. The DPM PS oversees the evaluation of Military Police functions to ensure consistency with jurisprudence and accepted Canadian policing standards, manages Public Complaint and internal Military Police conduct investigations, administers the Military Police Credentials Review Board and ensures adherence to the Military Police Professional Code of Conduct.

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 conduct its own reviews and investigations, as required. The Commission has the exclusive authority to deal with interference complaints.

Commission recommendations for improvements contained in its Interim and Final Reports are not binding on the CF and DND. However, they do provide the opportunity to further enhance transparency and accountability. Fostering a mutually respectful working relationship between the Commission and the CFPM facilitates the conduct of complaint investigations and the likelihood that recommendations will be accepted and implemented. It is noteworthy that for the fifth year in a row, 100% of the Commission's recommendations have been accepted.

Detailed information on the conduct and interference complaints processes is contained in later sections of this report.



V. The Military Police

Members of the Military Police provide a variety of operational, law enforcement, investigative and security services at CF Bases and Units across Canada and throughout the world, wherever the Canadian Forces serve.

There are approximately 1,200 credentialed members of the Military Police, i.e. those members who are entitled to be in possession of an MP badge and identification card, and thus peace officers by virtue of the Queen's Regulations and Orders for the Canadian Forces (QR&O) article 22.02, NDA s. 156 and Criminal Code s. 2. The Military Police exercise jurisdiction within the Forces and over both 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 civilian criminal justice system. MPs 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 make arrests and lay charges for offences pursuant to the *National Defence Act* and the *Criminal Code* and lay charges in civilian criminal courts.



VI. 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 conduct its own reviews and investigations, 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 their final disposition of the complaint 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

At the completion of the review, the Chairperson sends the Interim Report to the Minister of National Defence, the Chief of Defence Staff and the CFPM setting out the findings and recommendations regarding the complaints.

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 substantial and direct 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:

- Commission legal counsel 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 Commission legal counsel, reviews the evidence and other materials gathered during the CFPM's investigation of the complaint—this could be hundreds of pages of documents, emails, handwritten notes and reports, and many hours of 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 and the Chairperson or the assigned Commission Member, 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 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 and officials in the CF and/or to the DND.
- 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.

VII. Interference Complaints

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

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 substantial and direct interest in the case.

VIII. 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 II OVERSIGHT 2010



I. An Increasingly Public Profile

Somalia shadow hangs long over Afghan hearings

Canada.com, Vancouver Sun

Spectre of Somalia weighted on soldiers, detainee

inquiry told Globe and Mail

Third probe of detainee treatment

thestar.com

Dispute over torture reports threatens detainee hearings

Vancouver Sun

Colvin to appear before military police body

CBC.ca

Ex-police chief heading up Afghan prisoner probe

Edmonton Journal

Injunction sought to delay inquiry into handling of Afghan detainees

Calgary Herald

Detainee documents censored

Ottawa Citizen

Afghanistan Probe: What is Canada's Military Responsibility?

Pacific Free Press

Key detainee documents still stashed in Afghanistan

CTV

Military officials testify it "may take years" to sort them out

Macleans.ca

Media attention associated with the Afghanistan public interest proceedings has significantly increased public awareness about the Commission, about the complaints being addressed in the hearings, and in general, about the issue of independent civilian oversight of the Military Police.

The Commission has always had a degree of public profile, and has always been open and forthcoming about its mandate, activities and

some of the challenges it faces delivering this mandate. It accomplishes this through a variety of means such as:

- publishing all public interest final reports on the Commission's website;
- issuing press releases, briefings and media advisories (as has been the case at regular intervals in the Afghanistan hearings and other issues);

- keeping information on its publicly accessible website current and relevant;
- providing testimony and clarification at relevant Parliamentary Committees or in other venues; and,
- tabling publicly available annual corporate accountability documents in Parliament; and other initiatives.

However, significantly heightened media interest and commentary since 2007 related to the Afghanistan public interest complaints, (and by extension, to civilian oversight in general), have thrust the Commission into an unprecedented spotlight.

These groups include not only the general public but also legislators; other relevant Government departments/agencies and tribunals; professional associations related to the legal and oversight communities; advocacy organizations such as those involved with civil liberties and human rights; and international governments who are, for the first time, seeking to establish their own police oversight entities (and who are striving to understand and emulate the well-regarded Canadian approach). It is also worth noting that a British court recently referenced, as factual information, the Commission's investigation into Afghanistan detainees' transfers as a result of complaints by Amnesty International Canada/ British Columbia Civil Liberties Association.

It might be argued that such a torrent of attention, exposure and analysis make already sensitive and complex investigations/hearings even more difficult, or they become a primary distraction. However, such attention encourages debate, and brings contentious or other issues into the open. Perhaps even more, such attention underscores the importance of "getting it right" and being fair. However, the associated workload and other implications of operating in such a public environment have placed significant additional demands on Commission resources.

Ultimately, greater public awareness is positive. It is crucially important that the Commission's mandate and authority to carry out these investigations/hearings be understood, what issues are being examined, what independent civilian oversight of the Military Police means, and what risks are associated with not pursuing these issues. Such transparency further reinforces the Commission's accountability as well as the accountability of the Military Police.

Photo credit: www.combatcamera.forces.gc.ca © 2010 DND-MDN Canada





II. Highlights of Activities and Accomplishments

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

- Mr. Glenn Stannard was appointed full-time Chairperson of the Commission on May 14, 2010. Mr. Stannard had served as a Member of the Commission since September 12, 2007, and as Acting Chairperson since December 11, 2009.
- The Commission continued its Public Interest Hearing to examine complaints by Amnesty International Canada and the British Columbia Civil Liberties Association regarding Afghan detainees, as well as addressing related, ongoing access to documentation and other challenges.
- The Commission conducted and concluded investigations of conduct and interference complaints involving a wide range of allegations, such as abuse of power, inappropriate behaviour, inadequate investigations by the Military Police investigation and interference in a Military Police investigation.
- For the fifth year in a row, 100% of the Commission's recommendations in its Final Reports have been accepted by the CFPM.
- The Commission modernized various human resource processes and systems through automation consistent with government-wide renewal initiatives to streamline and simplify paper-based, labour and resource-intensive processes. For example, automation of the leave application and employee compensation process.
- Two initiatives were undertaken involving all Commission staff: a Planning and Team Building session to identify and discuss key themes in order to further strengthen operations and the working environment in general; and a session to further strengthen and reinforce employee knowledge regarding the identification and classification of assets under the *Policy on Government Security*.
- The Commission representatives visited six (6) Canadian Forces bases across Canada to engage with key audiences about the Commission's mandate and activities, and to respond to any questions or concerns about the complaints process. Also, for the first time, the Commission was invited to make presentations to specific training sessions at the Canadian Forces Military Police Academy. Presentations at the bases and at the Training Academy were very well-received.

III. Monitoring and Investigations

Overview

In 2010, the Commission continued to manage a heavy workload involving multiple and complex complaint investigations including those carried forward from the previous year, the Public Interest Hearing, and judicial review applications in Federal Court in relation to specific operational files.

The following table highlights the Commission's monitoring and investigation activities on a four year comparative basis from 2007 to 2010.

Statistics From 2007 – 2010

	2007	2008	2009	2010
Conduct Complaints Carried Over	9	10	14	13
New Conduct Complaints	30	42	43	43
Interference Complaints Carried Over	1	0	0	1
New Interference Complaints	0	0	1	1
Conduct Complaint Reviews Carried Over	8	8	11	5
New Conduct Complaint Reviews	8	7	6	6
s.250.38 Public Interest Investigations/ Hearings Carried Over	4	4	5	1
New s.250.38 Public Interest Investigations/Hearings	2	3	0	0
Judicial Proceedings Carried Over (e.g. Judicial Review) *	0	0	1	1
New Judicial Proceedings (e.g. Judicial Review)	0	1	3	4
No of General Files Opened (Request for information and other)	17	37	36	45
New Files Opened	57	90	89	99
Total No of Files Dealt in the Year	79	112	120	120
# of Interim Reports	8	7	8	5
# of Final Reports **	19	9	17	12
Percentage of Recommendations Accepted	100%	100%	100%	100%
No of Reports Issued	27	16	25	17

* Judicial review is the process under which the legality of actions of tribunals can be reviewed by the Federal Court.

** Includes concluding reports and no jurisdiction letters.

No jurisdiction means instances where conduct or interference complaints examined by the Commission include elements over which the Commission has no legal jurisdiction, e.g. where the subject of a complaint is not a member of the Military Police or the allegation complained of does not constitute a "policing duty or function", as per the Regulations.



IV. Oversight Challenges

The following provides an overview of the key oversight challenges the Commission addressed in 2010.

a) Afghanistan Public Interest Hearing—Amnesty International Canada (AIC) and the British Columbia Civil Liberties Association (BCCLA)

In 2010, the Commission held a public interest hearing into a “failure to investigate” complaint from AIC/BCCLA which alleged that members of the Military Police failed to investigate Canadian Forces’ Commanders having authority for transferring detainees to the Afghanistan authorities in the face of a known risk of torture. The “failure to investigate complaint” was one of two complaints by AIC/BCCLA, the other being a “transfer complaint” alleging detainee transfers by members of the Military Police took place without due regard to possible post-transfer mistreatment.

Developments in 2009 were significant and a very brief overview of these is provided herein. On September 16, 2009, Justice Harrington of the Federal Court ruled the Commission lacked the jurisdiction to investigate and hold hearings into the “transfer complaint”. The Commission’s request for leave to appeal this ruling was denied by the Federal Court of Appeal on December 4, 2009.

During 2009, the Commission’s progress with its public interest hearings was delayed due to ongoing delays in obtaining documents and access to witnesses, as well as by the aforementioned legal challenges in Federal Court to the scope of the Commission’s mandate. These activities were addressed in more detail in the Commission’s 2009 Annual Report; however, to provide some brief context they are summarized below.

There were significant difficulties obtaining timely access to documents from the Government as it insisted on “redacting” materials for sensitive information that “could injure international relations

or national defence or national security” (s. 38, *Canada Evidence Act*). To expedite this process, in 2009 the Commission proposed the Government place it on the list of agencies permitted to receive sensitive information under the *Canada Evidence Act*. This request was denied by the Government.

The Commission also faced delays accessing witnesses 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*.

On October 14, 2009, the Hearing Panel adjourned the hearings until appropriate disclosure had occurred. In late 2009, a Parliamentary Committee began examining the detainee transfer issues, and requested an appearance by the former Commission Chairperson.

On December 10, 2009, the Panel convened a case conference to obtain an official update of the status of document production. A timeline was set for the receipt of all documents by February 19, 2010, with hearings set to resume on March 22, 2010.

On December 11, 2009, former Chairperson Peter A. Tinsley’s term as Chairperson expired. Commission Member Glenn Stannard was appointed as Interim Chairperson. He was subsequently appointed as Chairperson on May 14, 2010. The Panel was reconstituted to include Chairperson Stannard and Commission Member Roy Berlinquette, who had been on the previous Panel.

Document Production and Resumption of Hearings in 2010

While far from complete, the Government began to produce documents within a timeframe that made it possible for the Commission to resume hearings as planned. On March 24, 2010, the Panel heard motions from counsel for seven (7) of the eight (8) subjects of the June 12, 2008 AIC/BCCLA “failure to investigate” complaint. In addition, there was a motion by LCol (Ret’d) W. H. Garrick challenging the Commission’s jurisdiction to name him a subject because he was retired.

The Panel adjourned to deliberate on the various motions and subsequently issued three rulings on April 1, 2010.

The first ruling determined that LCol (Ret'd) W. H. Garrick should remain a subject of the AIC/BCCLA complaint because it was necessary only that LCol (Ret'd) Garrick be a member of the Military Police at the time of the conduct to which the complaint related. This ruling was not contested.

The second ruling dealt with the standard of conduct to be applied in judging the conduct of the subjects of the complaint. The Panel ruled the Commission would be guided by existing jurisprudence, stating that a police officer should behave as a reasonable officer would in all the circumstances, as set out in the Supreme Court of Canada case of *Hill v. Hamilton-Wentworth Regional Police*, 2007 SCC 41 (hereinafter *Hill*).

The third ruling related to the motion by counsel for 7 of the 8 subjects requesting the Commission clarify how it intended to apply the “means of knowing” test, derived from an earlier Federal Court judgment of Justice Harrington. The Panel ruled the application of Justice Harrington’s judgment was inherently factual and contextual, and that the Commission would be guided by the *Hill* decision and what a reasonable MP in all the circumstances would have the means of knowing.

On April 6, 2010, substantive hearings began, at which time the Commission granted an oral request from Department of Justice counsel, pursuant to the *National Defence Act* and the *Afghanistan Public Interest Hearing Rules*, to have the evidence of the first two witnesses heard *in camera* to protect certain specified security interests. A key reason for granting this request was the fact that the un-redacted transcripts of the proceedings of April 6 and 7, 2010 would be made public. In addition, no party opposed the request. All hearings subsequent to those dates were conducted in public.

From April 6, 2010 to October 13, 2010, the Commission heard from 28 non-subject witnesses, including Military Police members who operated the detention facility at Kandahar Air Field, members of the National Investigation Service who oversaw the investigations into the detainee transfers, officials from the Department of Foreign Affairs and International Trade (DFAIT) officials who visited transferred detainees, and various

other high-ranking officers. From November 15, 2010 to December 2, 2010, the Commission heard from the eight (8) subject Military Police members.

Continued Document Production and Additional Federal Court Proceedings

On April 27, 2010 and May 3, 2010, the Commission summoned individuals from DFAIT and the Department of National Defence (DND) to explain the scope and pace of document production. As a result of this testimony, a new summons requesting further document production was issued initially to Major Gagnon and, subsequently, to BGen Blanchette after the Commission was advised there had been a transfer of duties.

Redacted documents continued to be provided from the Department of Justice, on behalf of DND and the Department of Foreign Affairs and International Trade (DFAIT) as late as October 2010, although the Commission remained discouraged with the pace of the process.

Legal counsel representing seven (7) of the eight (8) subject Military Police members, as well as the Attorney General of Canada, has initiated applications for judicial review of two Commission decisions (the eighth subject, who has separate counsel, has not joined in these applications). The first challenged the summons to Major Gagnon on the grounds it exceeded the Commission’s jurisdiction because documents requested were not ones the Military Police subjects of the complaint had the “means of knowing”. The second related to the Commission’s decision to schedule a motion to determine the standard against which the seven (7) subjects’ conduct would be assessed (specifically what the MPs had the “means of knowing” regarding the risk of mistreatment potentially faced by detainees transferred to Afghanistan authorities) after hearing from all of the non-subject witnesses in October 2010. These two judicial review applications are on-going before the Federal Court. On August 31, 2010, the Commission was granted interim intervenor status in both matters until the Commission’s intervenor motion can be heard in full.

On October 14, 2010, after hearing the evidence of all non-subject witnesses, the Commission heard submissions from counsel for all parties in respect of the second motion by counsel for

seven (7) of the subjects on the “means of knowing” test that should be applied to the subjects of the complaint. On November 3, 2010, the Commission issued its ruling stating, *inter alia*, that the “means of knowing” standard captures information which a reasonable Military Police member would have obtained by making reasonable inquiries. This entails a subjective element, based on what the Military Police member knew, and an objective element, as to what a reasonable Military Police member would have done in the circumstances to seek out more information to fill in the gaps. Whether a Military Police member acted reasonably in the circumstances is an issue relating to the expected standard of conduct and it will depend upon the totality of the evidence.

The Commission was subsequently advised by counsel representing seven (7) of the subjects and the Attorney General of Canada that a third judicial review application was going to be initiated by them, with respect to the Commission’s November 3rd decision, and joined with the two other judicial review applications that are presently outstanding.

Evidence from the Subjects of the June 12, 2008 AIC/BCCLA Complaint

In mid-November, the Commission entered the final stage of its public interest hearing process. From November 15 to December 2, 2010, the Commission heard testimony from the eight (8) military police subjects of the AIC/BCCLA complaint, whereupon the Commission adjourned to allow the parties time to prepare final written and oral submissions. The Commission will receive the

parties’ written submissions by January 26, 2011 and will hear final oral submissions on February 2 and 3, 2011. Thereafter, the Commission will consider those submissions along, with the whole of the evidence, and an Interim Report and, ultimately, a Final Report will be issued.

Corporate Impacts of Afghanistan Public Interest Hearing

The Afghanistan Public Interest Hearing continues to have a heavy, resource-intensive workload impact on Commission operations and administration. A number of measures have been implemented, or are being taken, to help address this impact:

- strategic decisions were taken to adjust already limited accommodation to provide the appropriate secure work and storage spaces, as well as to optimize the Commission boardroom/hearing room as the official on-site location



for Hearings; this has streamlined a number of logistical issues such as security and access to technology; minimized costs; and enabled the effective deployment of human resources;

- orderly and secure management of a high volume of sensitive, complex evidence, and legal and other documents was maintained;
- for health and safety reasons, given the large number of media, Commission and government officials, witnesses and others attending these Hearings, a defibrillator was acquired (along with related training); and,
- press releases, briefings and media advisories were issued; as well, the Commission's website remains up-to-date on new developments; timely responses to other demands for information was ensured also.

b) Canada Evidence Act, Schedule of Designated Entities

In June 2010, the Chairperson wrote to the Minister of National Defence requesting that he revisit his denial of the January 2009 request from the former Chairperson to add the Commission to the *Canada Evidence Act (CEA)* Schedule of Designated Entities, referenced in paragraphs 38.01(6) (d) and 38.01(8) of that Act. This would enable the Commission to access information, currently protected from disclosure under the Act, in order to support the information needs of the Public Interest Hearing, as well as future cases.

Since January 2009, a number of key developments further reinforced the importance of including the Commission on the *CEA* Schedule. These included the specific impact of *CEA*

restrictions on the present Public Interest Hearing, and the broader impact of *CEA* restrictions on Commission operations.

The Chairperson proposed an interim measure pending the Minister's consideration of the request to be included in the *CEA* Schedule. This measure involved the Minister's assistance in facilitating a possible disclosure agreement, pursuant to *CEA* section 38.031, between the Attorney General of Canada and the Commission. This would enable the Public Interest Hearing to be completed in a more timely and efficient manner. As further support for this proposal, the Commission highlighted:

- The existence of appropriate security clearances for relevant Commission members and staff;
- Requisite storage facilities for sensitive materials;
- Its demonstrated ability to exercise responsible control over sensitive materials; and,
- Its statutory reporting procedure with respect to complaint investigations and hearings which provides senior military and/or departmental officials the opportunity to address any sensitivity concerns in their review of an interim report before any such report becomes final.

In September 2010 the Minister responded, declining the request to facilitate a disclosure agreement citing the existence of policy and legislative implications.

The MPCC will continue its efforts to seek inclusion in the *Canada Evidence Act* Schedule of Designated Entities to address its ongoing challenge of receiving sensitive information in order to fulfill its mandate where required.

V. Other Judicial Review Cases

In 2010, the Commission also dealt with two non-Afghan detainee-related judicial review applications of the Commission's final reports. Judicial review is the process under which the legality of actions of tribunals can be reviewed by the Federal Court.

In both cases, the judicial review proceedings were initiated by former complainants dissatisfied with the Commission's findings that their conduct complaints were unsubstantiated. One of the judicial review applications was launched in 2009 and the other was launched in early 2010.

Pursuant to *Federal Court Rules* provisions restricting the participation of tribunals in reviews of their own decisions, the Commission was not a party to these proceedings. Instead, the Commission's reports were defended by counsel for the Attorney General of Canada.

Although the Commission was not the respondent in these applications, there was significant work required by the Commission to produce the detailed underlying "record" supporting its decisions. This involved a comprehensive review of its investigative files in respect of the two complaints. It also required the Commission to vet the relevant material for personal and other sensitive information which it considered extraneous to the court proceedings. In that connection, it was necessary to consult with the CFPM in respect of materials originating from MP files. In both instances, the former complainants abandoned their judicial review applications after receiving copies of the Commission's records.

The Commission's experience with these non-Afghan detainee-related judicial reviews has highlighted an apparent inconsistency in the approach

of the Attorney General of Canada regarding the Commission's participation in judicial reviews, as between those cases related to the public interest hearing and other cases. In non-Afghan detainee-related cases, the Attorney General accepts that the complainants and subjects of complaints are not "directly affected" parties and not otherwise appropriate respondents in a judicial review application vis-à-vis Commission decisions. However, when the Attorney General is the one challenging a Commission decision, as in the Amnesty/BCCLA complaints, their position is that the complainants are, in fact, the proper respondents.

In the Commission's view, the inquisitorial and non-adjudicative nature of its mandate and proceedings are such that it is generally unfair that the parties to a complaint should be expected to defend the Commission's jurisdiction in the Federal Court. To address this, the Commission intends to propose an appropriate legislative amendment in the context of the upcoming review of the 1998 NDA amendments, including those which established the Commission and the Military Police complaints process (this five-year legislative review is discussed further in the next section).



VI. Legislative Renewal

This section of the Annual Report covers two legislative items:

- Bill C-41, an Act to amend the *National Defence Act* and to make other consequential amendments to other Acts; and
- the potential five-year review of the *National Defence Act* which has been anticipated for some time.

Bill C-41: Bill C-41, an Act to amend the *National Defence Act* and to make other consequential amendments to other Acts, received first reading in the House of Commons on June 16, 2010. Bill C-41 received second reading and was referred to Committee on December 6, 2010. While the Commission supported most of the proposed amendments in the Bill relative to Military Police and Part IV in particular, in August 2010 it

provided the Minister of National Defence with three suggested modifications to Bill C-41 which would address Commission concerns. These are summarized very briefly below.

The first of these relates to potential conflict with the pending second independent five-year review of the *National Defence Act*. Through clauses 101 and 117, Bill C-41 would replace the current five year statutory provision with a review every seven years, commencing seven years from the coming into force of the proposed new amended *NDA*. This could preclude for another seven years the Commission from presenting proposals for improvements to the legislative scheme for the oversight of military policing it has been developing based on its extensive experience over 10 years working with the current legislation. Any potential conflict between

the pending independent five-year review of the NDA and Bill C-41 could be resolved by delaying the coming into force of clauses 101 and 117 until the report of the next independent review is tabled in Parliament.

The second of these relates to a proposed new subsection which provides for the appointment, role, authorities and accountabilities of the CFPM to be set out in the NDA. The proposed authority (in subsections 18.5(3) through (5)) for the Vice Chief of the Defence Staff (VCDS) to issue instructions to the CFPM in respect of particular investigations is regarded as highly problematic. It is also counter to the 1998 *Accountability Framework*, signed by the VCDS and the CFPM of the day, that stipulated the VCDS shall not direct the CFPM with respect to specific Military Police operational decisions of an investigative nature. For this, and a number of organizational, procedural and other factors, the Commission is concerned that the proposed subsection provides basic and general legitimacy to the chain of command to intervene in military police investigations.

In addressing the Commission's concern on this point, the Minister of National Defence responded that this relationship will not affect the CFPM's independence. The Minister noted that the ability of the Vice Chief of the Defence Staff (VCDS) to issue instructions or guidelines in specific cases reflects the overall responsibility of the VCDS for resource management of the Military Police and the legitimate need for conveying direction to the CFPM regarding the needs of the chain of command on operational matters. The Minister highlighted that the transparent safeguards against improper interference in Military Police investigations by the VCDS include the CFPM's ability to make an interference complaint to the Commission under Part IV of the NDA. The Commission recommended an amendment to subsection 18.5(3) that would clarify in the legislation its intended relationship with s. 250.19 of the NDA; namely, the addition of

the words "subject to s. 250.19". The Commission's concern is that, in the absence of any express legislative language dealing with the relationship between the two provisions and the absence of any existing definition in law of the notion of "improper interference", there is a real risk that the courts would read down the concept of "improper interference" so as to automatically exclude any action by the VCDS under proposed subsection 18.5(3).

The third of these involves a fairly significant drafting error in the present *NDA Part IV* in the French version of the Bill in which the phrase "security interest" has been translated as "financial resources" (resources pécuniaires) not as "la sécurité". This error has existed for some time and has already been brought to DND's attention by the Commission on two other occasions. This is a straightforward correction, with no policy implications, which should be implemented.

In light of Bill C-41 an *Act to amend the National Defence Act and to make other consequential amendments to other Acts*, the Commission continues to monitor and comment on the Bill to address some of the Commission's concerns.

Five-Year Review of the National Defence Act:

Lastly, it is anticipated that the five-year review of the *National Defence Act* will commence in the near future and that the Commission will be provided an opportunity to provide recommendations for improvements to Part IV of the NDA. The Commission would propose to contribute constructive comments and recommendations in the areas of:

- the scope of oversight;
- the Commission's access to information; and
- fair and efficient procedures.



VII. Impact on Military Policing (Case Summary)

In this section of the Annual Report we provide four case summaries 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. For ease of reading, it should be noted that the personal pronoun 'he', or the possessive pronoun 'his', will be used where appropriate in these case summaries, regardless of the gender of the individual referenced.

a) Case: Conduct complaint against two Military Police members alleging abuse of power and inappropriate behaviour.

Background: This case involved an incident on the grounds of the Royal Military College in Kingston, Ontario. The complainant, a private citizen, was pulled over by MP #1 for passing through a posted yield sign. MP #1 advised the dispatcher that the vehicle had an obscured licence plate. MP #1 told the complainant the vehicle's licence plate was illegible. After MP #1 rubbed the plate, the validation sticker was clearer. The complainant says MP #1 spit directly on the plate. MP #1 issued a traffic ticket to the complainant for an obscured licence plate.

The complainant's vehicle registration was a poor quality copy, not the original. MP #1 could not read the plate number or the validation sticker as required under *the Highway Traffic Act (HTA)*. MP #1 explained that while the copy was not legal he would not charge the complainant for this offence.

The Complainant alleged that MP #1 was bullying and abusive during the traffic stop; inappropriately spit on the complainant's licence plate; incorrectly stated the complainant could be ticketed for carrying a photocopy of the registration; and, did not explain that the complainant could challenge the traffic tickets in court.

MP #2 overheard the call to the dispatcher and went to the incident, parking behind MP #1's vehicle. MP #2 did not see MP #1 wiping the licence plate and did not hear the conversation between the two individuals.

The complainant alleged that following the incident MP #2 tailgated his vehicle for no apparent reason. MP #2 states he followed at about one car length without tailgating. When MP #1 learned of the conduct complaint, he supplemented his notes with input from the dispatcher and MP #2.

The Commission found that two allegations against MP #1 were substantiated. MP #1 acted discourteously and unprofessionally which intimidated and humiliated the complainant; and, MP #1 did not properly consider exercising discretion to issue a warning and unreasonably fettered his own discretion when ticketing the complainant.

The remaining allegations against MP #1 and MP #2 were found to be unsubstantiated. The CFPM accepted the Commission's recommendations that: 1) MP #1 be offered assistance and guidance on dealing with people; on properly exercising professional judgment and discretion; and on the importance of taking proper investigation notes; 2) there be prompt and proper implementation of technology, such as the Motor Vehicle Registration System, to preserve evidence; 3) proper MP note-taking procedures are maintained and reinforced; and, 4) MP members at all levels be reminded of mandatory procedures related to MP conduct complaints and steps be taken to ensure no repetition of errant procedures found in the handling of this particular complaint.

b) Case: Interference complaint involving two separate allegations of interference against a base Provost Marshal by a patrol MP.

Background: This case involves a minor vehicle collision on a CF base involving the base chief's spouse in which the latter is considered to have been at fault; and the alleged improper opening of a General Occurrence file related to dogs running loose on the base. The complainant was the original investigating MP in both files.

Specifically, the complainant alleged that:

- the base Provost Marshal (base PM) had improperly interfered with a collision investigation by transferring the file to a more junior and inexperienced MP and by effectively directing that no charges would be laid in the case; and,
- the base PM improperly opened a General Occurrence file (related to dogs running loose) under the complainant's badge number and directed the complainant to scan his notes into the file.

The complainant also made a third, unrelated allegation which was deemed to be a conduct, not an interference, complaint and the Commission referred it to the CFPM to be dealt with in the first instance.

The Commission found that:

- it was a legitimate supervisory decision for the base PM to transfer the collision investigation file to a junior MP because the complainant was going on a 5-day course. The file presented a useful learning opportunity since it was not a serious case, and thus an appropriate one for the junior MP. The circumstances surrounding the decision to transfer the file do not adequately infer any improper intention by the base PM to interfere in the investigation;
- on the issue of the alleged statement attributed to the base PM to the effect that no charges would be laid as a result of the collision, there were some conflicting views. The Commission determined that the base PM did say something which expressed an expectation that charges would not be laid. However, in light of all the

evidence, the Commission believes that this was likely the base PM's personal assumption as to the probable outcome rather than direction to the more junior MP; and,

- it was a legitimate supervisory decision for the base PM to open a General Occurrence file related to dogs running loose as it was a recurring base problem and one that the complainant had dealt with previously. The complainant had already made notes of the incident but had not created a General Occurrence file. At the time the file was created, the complainant was on leave. Asking the complainant, upon his return to the office, to scan his existing notes into the newly opened file was not unreasonable. Those interviewed specified that the file was opened using the more junior MP's badge number not the complainant's badge number.

The Commission found the complainant's two allegations unsubstantiated.

c) Case: Conduct complaint alleging harassing and disconnected telephone calls.

Background: The alleged victim of these calls was a civilian telecommunications employee working on a CF base. All calls allegedly originated from base telephones to the employee's work site and off-base residence. Calls at work would be inexplicably disconnected or interrupted by a clicking sound, which the employee suspected was a third party listening on the line.

The complainant, also a telecommunications technician at the same base, was the subject of an MP investigation. The complainant and the alleged victim had recently ended a romantic relationship and the calls began shortly after the alleged victim began dating another individual on the base, who then also began receiving hang-up calls.

The complainant was arrested and charged by the MP with criminal harassment and the interception of private communications under the *Criminal Code*. The charges were ultimately withdrawn by the prosecutor, who doubted there was a reasonable prospect of conviction, because it was discovered it might not have

been technologically possible for the complainant to listen in on the alleged victim's telephone calls. The ability to do so is a requirement of the "interception" charge.

The complainant alleged that the investigating MP should have determined whether the allegations were technically feasible before arresting and charging the complainant and that the MP lacked the necessary legal grounds for doing so. The complainant also alleged that the MP investigation was "well below" the expected policing standard.

The Commission determined mistakes were made in the MP investigation (e.g. inaccurate and potentially misleading information was included in the investigation file). However, the information available to the MP supported reasonable grounds to arrest the complainant and lay charges because the MP had initially been informed by technical experts that it was possible for the complainant to listen to, as well as disconnect, calls on base telephones. Given the adequacy of the grounds to arrest and charge the complainant, the investigation was not "well below" the expected policing standards. Moreover, the complainant was not prejudiced by any of the mistakes attributable to the MP. As a result, the Commission found the complaints to be unsubstantiated.

d) Case: Conduct complaint alleging biased investigation, destruction of evidence, breach of medical confidentiality, violation of the *Privacy Act* and racism. (Concluding Report)

Background: Complainant allegations of biased investigation, destruction of evidence, breach of medical confidentiality, violation of the *Privacy Act* and racism stemmed from a 2007 investigation of the complainant. This investigation was carried out, at the request of the complainant's unit, for various *Code of Service Discipline* infractions, such as failing to inform chain of command of civilian criminal charges. Following an MP investigation, the complainant was released from the CF, although no proceedings under the *Code of Service Discipline* were initiated.

Delays in closing the MP investigation file due to resource limitations and the file's lower priority led, in turn, to a delay in the complainant's ability to obtain a copy of the file under the *Privacy Act*. When the complainant did gain access, the tape recording of the MP's investigation interview was not in the file. Since no charges were laid, no copy of the recording was retained as evidence and it was erased in accordance with regular MP practice. The complainant filed a complaint against DND with the Office of the Privacy Commission (OPC) who subsequently concluded that the complaint was not founded.

The complainant also filed a Military Police conduct complaint under NDA Part IV, and ultimately requested that the Commission review this complaint. Consistent with established practice, the Commission forwarded the complaint to the DPM PS for appropriate action. The DPM PS found that: there was no breach of either the *Military Police Professional Code of Conduct* or the *Military Police Policies and Technical Procedures*; the complainant's allegation of racism appeared to be directed at civilian police with whom he had been involved rather than members of the Military Police; any confidential medical information which may have been released had not been in the possession of the MPs; and, MPs were not obliged to preserve the interview recording given its lack of evidentiary value.

The complainant requested that the Commission review the file and it did so, along with other material provided by the complainant. It became evident that the complainant's true focus was the action of his former supervisor to have the complainant released from the CF. This former supervisor was not an MP and not liable to be the subject of a conduct complaint over which the Commission has jurisdiction.

For those allegations that did involve MP conduct, the Commission considered there would be no purpose in investigating the complaint further, nor was there any basis to depart from the conclusions of the DPM PS, which the Commission supported. Accordingly, the Commission made no findings or recommendations, which would have required a response from the CFPM in the form of a notice of action pursuant to NDA section 250.51, and a Concluding Report was issued.



VIII. Outreach and Collaboration

In 2010, 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. These initiatives enabled the Commission not only to share information regarding its responsibilities, but also regarding rights and entitlements of those who may become involved in complaints related to military policing, on the premise that “If rights are not known, they do not exist.” In addition, the Commission was 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 base commander, 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.
- 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 2010, representatives of the Commission visited five (5) Canadian Forces’ bases, making formal presentations and having informal discussions with attendees at the following locations across Canada:

- Toronto, Ontario
- London, Ontario
- Shilo, Manitoba
- Dundurn, Saskatchewan
- Moose Jaw, Saskatchewan

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 2010 information sessions provided the Commission with positive feedback on the value of the presentations, the case examples used and the clarity of responses the Commission provided to questions.

Military Police Academy

In addition, for the first time, the Commission was invited to make presentations to increase awareness of its mandate and processes to participants at the Canadian Forces Military Police Academy (CFMPA), advanced military police training course (QL5), in Borden, Ontario. Two such presentations were made attended by approximately 25 participants at the Sergeant level at each session. Other sessions will be scheduled in the coming year in accordance with the training calendar.

The CFMPA has been in existence since April 1999. Its primary mission is to provide career and specialist training to Regular and Reserve Force members of the Military Police Branch, and security-related training to non-Branch personnel of the Regular and Reserve Forces. CFMPA also provides training to personnel from other

government and law enforcement agencies and to foreign nationals under the Military Training Assistance Program.

The Commission very much appreciates the efforts of the many individuals who organized, supported and participated in its 2010 base outreach activities and its sessions at the CFMPA. Through these activities, the Commission continued to broaden and reinforce its appreciation and understanding of some of the operational challenges faced by the Military Police community.

Meeting with Trinidad Representatives:

In June 2010, Commission personnel met in Ottawa with representatives of the Trinidad Judge Advocate General's Office and a commander from its military chain of command, as well as two representatives of the Canadian Judge Advocate General's office. A presentation was made on the mission and mandate of the Commission, as well as some of the challenges faced in exercising the Commission's oversight role.



Collaborative Working Relationships

In 2010, the Commission continued its ongoing discussions with the CFPM and the DPM PS 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 Ontario Association of Chiefs of Police (OACP), the Canadian Association for Civilian Oversight of Law Enforcement (CACOLE) and the Canadian Bar Association (CBA).

OACP is a recognized police interest group at the provincial level which strives to increase the efficiency of law enforcement agencies for the protection and service of the people of Ontario. It promotes competent administration of policing services; coordinates police training and education; provides timely efficient flow of information to its members; and addresses membership concerns and priorities through a unified voice to government. OACP currently has more than 1,500 members and represents the Royal Canadian Mounted Police, the Ontario Provincial Police, First Nations, and Municipal Police Services.

The Chairperson of the Commission is a life member and former President of OACP and maintains contact with Chiefs of Police across the province.

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 Commission Chairperson is a member of the Board of Directors of CACOLE. The Chairperson and other Commission representatives participated in CACOLE's June 2010 meeting.

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 are members of the CBA and active participants in the CBA's National Military Law Section.

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 the Association of the Independent Federal Institutions' Counsel.



PART III STEWARDSHIP EXCELLENCE

Throughout 2010, the Commission continued to demonstrate stewardship excellence in the effective and efficient management of its human, financial and assets resources.



I. Human Resource Management

Automation of Processes: In 2010, the Commission implemented various automated human resources processes and systems consistent with the Clerk of the Privy Council's human resources renewal priority and government-wide initiatives. This included implementation of the:

- automated leave application through the Human Resources Information System (HRIS);
- Employee Passport which helps to ensure the timely electronic transfer of employees' records from one Public Service department to another;

- Compensation Web Application which replaces the paper-based compensation information; through this application, Public Service employees will be able to securely access, view and amend information regarding their compensation;
- application related to the Public Service Health Care Plan coverage; and,
- Virtual Pay application which will enable employees to view their pay on line, eliminating the need for paper-based pay stubs normally received during the pay period.

It is worth noting that over the longer term, the automation (“greening”) of previously paper-based functions will be environmentally positive.

Organization Structure: The Commission reviewed and amended its organization structure to ensure adequate succession planning and opportunities for advancement. Positions were realigned in order to stabilize areas such as the Registry, Information Technology, Legal services and Finance.

Human Resource Planning: The Commission continues to stress effective human resource planning. This includes anticipating potential staff turnover, developing staffing strategies to help ensure that knowledge is retained (e.g. through employee learning plans) and ensuring that vacancies are filled as quickly as possible.

Planning and Team Building Session: The Commission carried out a very well-rated Planning and Team Building session for all staff to identify and discuss key themes in order to further strengthen operations and the working environment. Examples of themes included: teamwork; training and professional development; and operational issues such as the Public Interest Hearing; and policies and procedures. Action plans were put in place to address the items identified.

Staff Training Session—Identification of Assets:

To further strengthen and reinforce employee knowledge, the Commission held a one day training session on the identification of assets under the *Policy on Government Security*. Topics included the appropriate classification and marking of sensitive information to ensure the effective protection of this information.

Emergency Response Plans: The Commission reviewed, updated and communicated its emergency response plans, including roles and responsibilities, as well as its Pandemic Plan, to reinforce staff awareness and preparedness.

Awards and Recognition Program: Throughout the year, the Commission continued to recognize the efforts of its employees. During National Public Service Week in June 2010, the Chairperson hosted an awards and recognition appreciation ceremony. At this ceremony, a number of employees were publicly recognized for their contributions to workplace well-being and high quality work achievement. It is worth noting that in the most recent Public Service Survey of employees, for the issue of employee recognition, the Commission received a 5/5 rating, which was well above the national average of 4.12/5 for the Public Service as a whole.

II. 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.

Operational Funding: The Commission received an additional \$2.5 million for fiscal year 2008-09 as part of approximately \$5 million in total funding authorized over the three-year fiscal period ending 2010-11.

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.

5 Year budget and expenditure comparison

The Commission continues to demonstrate sound financial stewardship of its finances. For the past four years, the Commission has been successful in working effectively within its overall approved budgets. During the year, regular financial updates were provided to the Executive Committee to reinforce rigorous financial management and control.

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 2010, 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*.

Privacy and Access to Information: The Commission continued to experience a steady volume of requests made under the *Access to Information Act* and *Privacy Act*. The thirty-day

response time limit continued to be met for the majority of these requests. One new Commission Information Bank related to Legal Research and Legal Data was submitted to Treasury Board Secretariat. In addition, the Administrative Services Officer, responsible for ATIP requests, attended a Treasury Board Secretariat training session on Personal Information Banks.

Official Languages: As of December 2010, 100% of individuals met the linguistic requirements of their positions. 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 continued to effectively meet increased media and other demands from within and outside government for information, particularly related to its high profile Afghan Public Interest Hearing. Throughout 2010, the

Commission also provided timely, open information through press releases, media advisories, backgrounders and other documents, including updates on its website and individually tailored responses, as required.

Photo credit: www.combatcamera.forces.gc.ca © 2010 DND-MDN Canada





PART IV IN CONCLUSION

Looking ahead, the Commission will continue to meet the needs and expectations of the Military Police community—as well as the expectations of Canadians—through its fair, accountable and transparent examination of conduct and interference complaints and the soundness of its findings and recommendations.

The Commission will also continue to provide effective sound management of its human, financial and assets resources, as well as its compliance with applicable government legislation and policy requirements.

In the coming year, the Commission looks forward to the opportunity to contribute constructive comments and recommendations to further strengthen civilian oversight of Canada's Military Police in the anticipated five (5) year review of the *National Defence Act*. Such comments and recommendations would address the scope of oversight; Commission access to information; and fair and efficient procedures.

We also look forward to continuing to work collaboratively with the National Defence leadership, the CFPM, the chain of command, and the Military Police community, as well as our partners and stakeholders as we fulfill the Commission's oversight mandate.



I. Commission Chairperson

Glenn Stannard – Chairperson

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 citizens 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 charges against police officers under the PSA.

II. 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) rose 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.

Louis Bélanger – MPCC Member

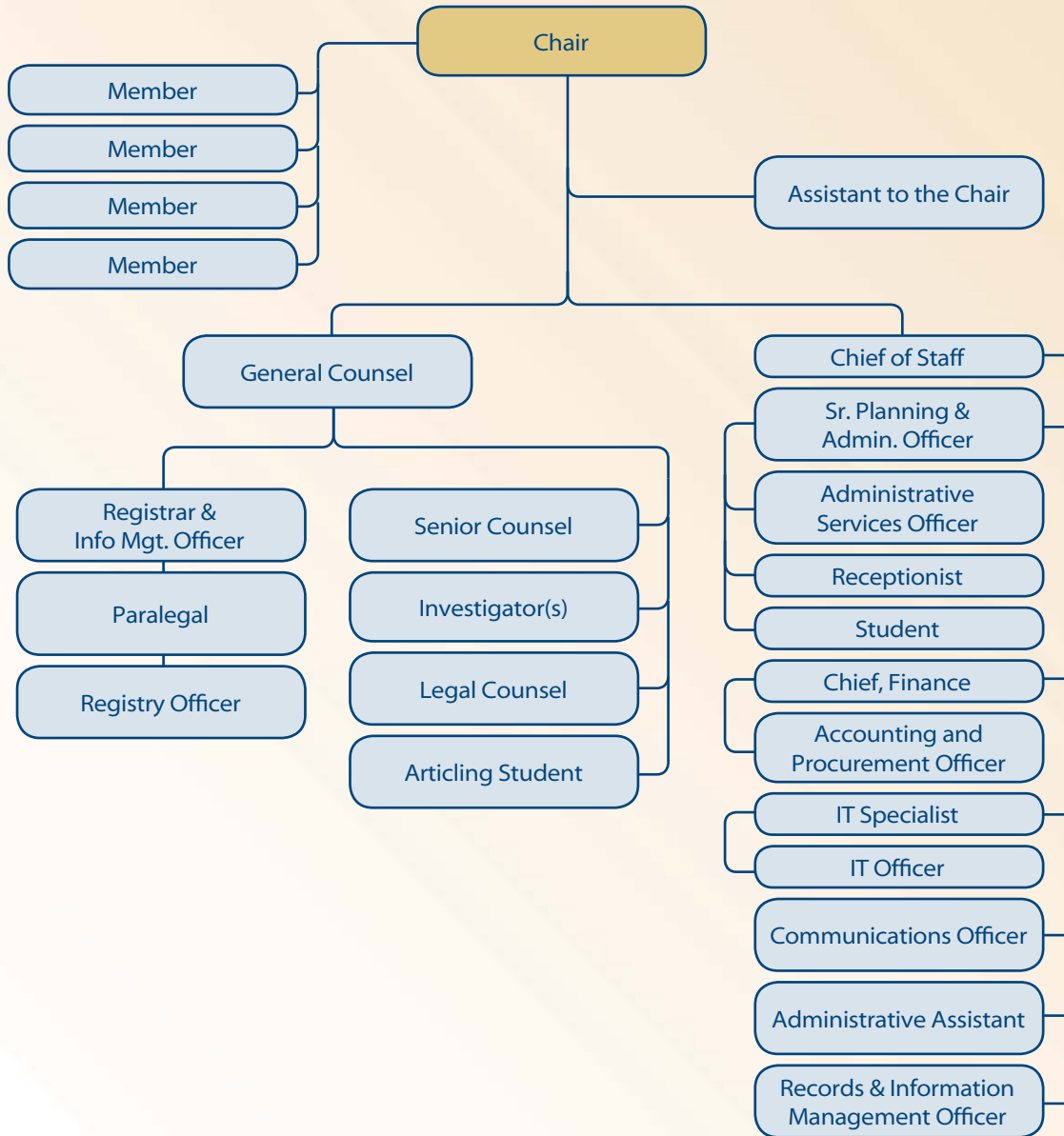
Louis Bélanger is a Professor of International Relations in the Department of Political Science at Université Laval, Quebec City. From 2000 to 2005, Professor Bélanger was the Director of Université Laval's Quebec Institute for Advanced International Studies (HEI). He is the author of numerous publications on Canadian foreign policy, comparative foreign and trade policy, inter-American cooperation, and the politics of secession.

In 1998, Louis Bélanger 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 a member of the Advisory Council on National Security and the Military Police Complaints Commission. A graduate from Laval (Ph.D., 1996), Louis Bélanger also pursued Slavic Studies at the University of Ottawa.

III. Current Organization Chart



IV. How to Reach the Commission

Call our information line:

613-947-5625 or toll-free at 1-800-632-0566
to speak to an intake officer

Send us a fax:

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

Send us a letter:

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

Visit us at the above address for a private consultation – appointments are recommended

E-mail us:

commission@mpcc-cppm.gc.ca

Note: Please do not send confidential information via e-mail;
we cannot guarantee the security of electronic communications at this time

Visit our website:

www.mpcc-cppm.gc.ca

Media inquiries:

613-947-5625 or e-mail media@mpcc-cppm.gc.ca