

Military Police Complaints Commission

2009-2010

Estimates

Report on Plans and Priorities

Approved:

**Honourable Peter Gordon MacKay, P.C., M.P.
Minister of National Defence**

TABLE OF CONTENTS

Chair’s Message.....	1
SECTION I - OVERVIEW	3
1.1 Summary Information.....	5
Raison d’être	5
Responsibilities.....	5
Strategic Outcome.....	6
Program Activity Architecture.....	6
1.2 Planning Summary.....	7
SECTION II - ANALYSIS OF PROGRAM ACTIVITY BY STRATEGIC OUTCOME	15
2.1 Strategic Outcome.....	17
SECTION III - SUPPLEMENTARY INFORMATION.....	23
3.1 Other items of Interest – Organization Chart.....	25
3.2 Other items of Interest – How to reach us	26

Chair's Message

I am pleased to present the *2009-10 Report on Plans and Priorities* of the Military Police Complaints Commission. This Report on Plans and Priorities sets out what the Commission intends to do over the next three years to provide greater public accountability by the military police and the chain of command in relation to military police activities. The Commission is solely responsible to provide these independent oversight services, services that help to ensure that the military police perform their policing duties in accordance with the highest standards for the benefit of the Canadian Forces and the communities they serve, and, ultimately, all Canadians.

The current year has been an extremely challenging year for the Commission; the years ahead are expected to be even more so. Issues continuously arise that must be effectively addressed in order to be able to provide effective oversight. The Commission must successfully manage multiple, concurrent, increasingly complicated and costly investigations involving the review of thousands of pages of evidence and the interviewing of many witnesses. There is an increasingly broad scope of complaints and significantly expanded workload. Further, there is much greater sensitivity in the post-9/11 environment regarding privacy, privilege and national security issues associated, more generally, with the protection and disclosure of information, and more particularly, as contained within the provisions of specific legislation (the *Canada Evidence Act*, the *Privacy Act* and the *Access to Information Act*) which requires balancing privacy rights and the public's right of access to information.

Of particular note is that on March 12, 2008, I directed that the investigation into the complaints lodged by Amnesty International Canada and British Columbia Civil Liberties Association move to a public interest hearing (PIH) process. The Attorney General of Canada responded by requesting a judicial review in Federal Court of the Commission's jurisdiction in this matter. The requirement to hold a public interest hearing and to respond to the judicial review application has resulted in additional and increased costs and workload. As a result, the Commission requested and received almost \$5 million dollars over the three fiscal years ending 2010-11 for the one time expenses of the public interest hearing and the related Federal Court proceedings. The planned use of these funds is explained in this report.

The staff of the Commission is extremely hard working and they do a remarkable job resolving the complaints the Commission receives and finding innovative solutions to the challenges it faces. It is through their efforts that the Commission can provide effective oversight services on behalf of all Canadians.

We must continue to advance the quality of our oversight services to help ensure that the military police are able to maintain the highest standards of professional conduct and are able to conduct their investigations free of interference. This Report on Plans and Priorities details how the Commission will do so.

Peter A. Tinsley
Chair

Section I - Overview

SECTION I – OVERVIEW

1.1 Summary Information

Raison d'être

On behalf of all Canadians, the Military Police Complaints Commission (the Commission) exists to provide greater public accountability by the military police and the chain of command in relation to military police activities. The Commission derives its mandate from Part IV of Canada's *National Defence Act*.

Responsibilities

A complaint may be lodged by any person about the conduct of a member of the military police. A member of the military police conducting or supervising an investigation is also able to complain about improper interference encountered in the conduct of an investigation. The Commission has exclusive jurisdiction over complaints of interference.

The Commission oversees the military police complaints process, ensuring that it is accessible, transparent and fair to all concerned. The Commission, in its review of complaints identifies opportunities for improvement - be it in the behaviour of individual military police members or in the system of policies and procedures that govern the behaviour of all - and makes recommendations for change. These recommendations for change, when implemented, will support the military police in maintaining the highest standards of professional conduct and in assuring the integrity of military police investigations. The effective discharge of the oversight activity by the Commission will also provide assurance to members of the Canadian Forces, and ultimately to all Canadians, that they are being served by a military police service of the highest quality.

The Commission is a micro-agency. Operating out of Ottawa, the Commission currently has 19 full time employees (FTEs) and a program budget of \$3.4 million. As a result of the public interest hearing and the Federal Court application, the Commission requested and received an additional \$5.0 million (\$1.2 million in FY 08/09; \$2.6 million in FY 09/10; \$1.2 million in FY 10/11) as well as an increase of 3 FTEs (increase of 3 FTEs in FY 09/10 reducing to 2 FTEs in 10/11).

The Commission reports to Parliament through the Minister of National Defence.

Strategic Outcome

In order to effectively pursue its mandate, the Commission aims to achieve the following strategic outcome: Conduct complaints against the Military Police and interference complaints by the Military Police are resolved in a fair and timely manner and recommendations made are implemented by the Department of National Defence and/or the Canadian Forces.

Program Activity Architecture

The relationship of the program activities, the priorities and the strategic outcome is illustrated in the diagram below.



1.2 Planning Summary

Financial Resources (\$ millions)

The financial resources table below provides a summary of the total planned spending for the Military Police Complaints Commission for the next three fiscal years.

2009-2010	2010-2011	2011-2012
\$6.0	\$4.6	\$3.4

The total planned spending is allocated in the table below to better disclose how the monies are planned to be disbursed.

	2009-2010	2010-2011	2011-2012
Ongoing Program	\$3.4	\$3.4	\$3.4
Expenses related to the Public Interest Hearing and Legal Proceedings regarding the transfer of detainees in Afghanistan	\$2.6	\$1.2	\$0.0

Human Resources (FTEs)

The human resources table below provides a summary of the total planned human resources for the Military Police Complaints Commission for the next three fiscal years

2009-2010	2010-2011	2011-2012
22	21	19

The total planned FTEs are allocated in the table below to better disclose where the FTEs are planned to be utilized.

	2009-2010	2010-2011	2011-2012
Ongoing Program	19	19	19
FTEs related to the Public Interest Hearing and Legal Proceedings regarding the transfer of detainees in Afghanistan	3	2	0

Strategic Outcome: Conduct complaints against the Military Police and interference complaints by the Military Police are resolved in a fair and timely manner and recommendations made are implemented by the Department of National Defence and/or the Canadian Forces.

Performance Indicators		Targets			
Percentage of recommendations resulting from investigations of conduct or interference complaints accepted by the Department of National Defence and/or the Canadian Forces		70%			
Percentage of investigations of conduct or interference complaints resolved within targeted timeframes as established by the Commission Chair		70%			
Percentage of individual members received remedial measures and/or improvements were made to military police policies and practices pursuant to investigations of conduct or interference complaints		70%			
Number of presentations given on the mandate, role and responsibilities of the Commission		10			
Program Activity	Forecast Spending * 2008 – 09 (\$ millions)	Planned Spending (\$ millions)			Alignment to Government of Canada Outcomes
		2009 - 10	2010 – 11	2011 – 12	
Complaints Resolution Program	3.1	4.5	3.1	1.9	Safe and Secure Canada
Internal Services	1.5	1.5	1.5	1.5	Safe and Secure Canada
Total	4.6	6.0	4.6	3.4	

* This include the ongoing program funding, including the carry-forward, as well as the additional funding received for expenses related to the Public Interest Hearing and Legal Proceedings regarding the transfer of detainees in Afghanistan

The priorities remain unchanged from the previous year. Providing the complaints resolution more effectively will result in timely investigations that confirm the correctness of the actions of the military police or provide recommendations, accepted and implemented by the Department of National Defence and/or the Canadian Forces, for improvement in policing activities. These confirmations and implemented recommendations will contribute to the maintenance and achievement of the highest standards of professional conduct by the military police.

Contribution of Priorities to Strategic Outcomes

Operational Priorities	Type	Links to Strategic Outcome	Description
<p>Improving the effectiveness and efficiency of complaints resolution</p>	<p>Ongoing</p>	<p>Conduct complaints against the Military Police and interference complaints by the Military Police are resolved in a fair and timely manner and recommendations made are implemented by the Department of National Defence and/or the Canadian Forces.</p>	<p>The Commission has no control over the complaints received and the resulting volume, complexity and size of the investigations that ensue. As a result, the Commission must continue to refine the planning and conduct of its investigations. Timely, well-completed investigations will result, where required, in meaningful recommendations for change in policing activities that are accepted and implemented.</p> <p>As well, the Commission will continue to work with the Chief of Defence Staff, the Canadian Forces Provost Marshal, Deputy Provost Marshal / Professional Standards and other stakeholders to foster an environment that supports the acceptance and implementation of recommendations.</p> <p>In order to promote a greater appreciation and understanding of its mandate and the complaints resolution process, the Commission will continue its outreach program. These base visits allow stakeholders to gain a further appreciation of the Commission and how it operates and allows the Commission to gain first-hand information on some of the challenges faced by the Military Police.</p>

Operational Priorities	Type	Links to Strategic Outcome	Description
Management Priorities			
Improving Governance	Ongoing	Conduct complaints against the Military Police and interference complaints by the Military Police are resolved in a fair and timely manner and recommendations made are implemented by the Department of National Defence and/or the Canadian Forces.	<p>The Commission will continue to improve on its stewardship of the resources entrusted to it, including the additional funding received for the public interest hearing and federal court challenges in 2009-10 and 2010-11.</p> <p>Planning and reporting will be further aligned with the Program Activity Architecture. The focus will be on reviewing and revising the performance measurement framework to more correctly assess the investigations completed and the results achieved.</p> <p>The Commission is awaiting the results of the 2008-09 Management Accountability Framework assessment and two horizontal audits on its operations performed by the Office of the Comptroller General. Changes required will be addressed and implemented in 2009–10.</p>

Risk Analysis

Capacity and Timeliness

The Commission is addressing issues that are both unique and complex. The time required to conduct investigations and to complete the necessary research and analysis is growing. The complexity of the cases is resulting in thousands of pages of evidence and the need to identify, schedule and interview several witnesses across Canada and abroad. All of these factors contribute to both extending the duration of an investigation and length of the time required to write both interim and final reports. And the extra time involved increases the costs. The Commission will continue to review its critical path and its current use of technology in order to identify further cost and time savings.

Resources

The Commission is not resourced to conduct large public interest hearings. Prior to 2008-09, the Commission had one public interest hearing which cost approximately \$100 thousand and was paid for out of the existing resource base. However, the estimated cost of the public interest hearing regarding the handling of Afghanistan detainees was beyond the existing resource level of the Commission. As a result, the Commission needed to seek additional funds over the three year period ending in 2010-11 to cover the one-time costs of both the public interest hearing as well as the resulting Federal Court challenges.

The Commission prepared a business case setting out the requirement for additional funding. The business case was approved but the receipt of the funds has been delayed because of the prorogation of Parliament. As the current year came to a close, the Commission was carefully monitoring its commitments and payments to ensure fund availability to continue with its ongoing operations while at the same time to carry on with the public interest investigations and hearing and to respond, as required, to the Federal Court applications.

It should be noted, however, that the Commission is not resourced to conduct a substantial public interest hearing and should the situation once again arise, it will once again require the Commission to seek additional funding and perhaps a permanent increase in its reference level.

Collaboration

The Commission will continue its practice of annual meetings with the Canadian Forces Provost Marshal and senior military police staff in order to discuss, address and resolve issues and even further strengthen the complaints resolution process. It will also continue its mutually beneficial working relationships with other government departments and agencies, professional associations and intra-government affiliations.

Recommendations for improvement in the Commission interim and final reports are not binding on the Canadian Forces and DND. The Commission will continue to foster quality working relationships in order to facilitate the conduct of the investigations and increase the likelihood that recommendations will be accepted and implemented.

Balancing Privacy Rights and the Public Interest

Appropriately balancing privacy rights of individuals versus the public interest's right to know is a unique challenge influenced by the *Privacy Act*. Section 8 of the Federal *Privacy Act* allows the deputy head of an institution to disclose personal information where "the public interest in disclosure clearly outweighs any invasion of privacy that could result from the disclosure."

The *National Defence Act* specifically requires the Commission Chairperson to release a report outlining his findings and recommendations following a public interest

investigation and/or hearing. This is consistent with the rationale put forward when the Commission was created in 1999 “to provide independent civilian oversight of the Canadian Forces military police” and “to provide for greater public accountability by the military police and the chain of command in relation to military police investigations.” Therefore, the Commission has a duty to ensure accountability and transparency in its processes and to serve the public’s right to know. Public trust and confidence are essential ingredients for effective policing.

The Commission believes that its legislative mandate allows, in certain situations, the use of personal information in its final reports. However, the Privacy Commissioner has set an extremely high threshold for disclosure i.e. “disclosures based on public health risk and overall safety of the Canadian public” and has not yet accepted this practice by the Commission. The Commission will continue to address these matters with the Office of the Privacy Commissioner in order to find a solution that will satisfy the goals and interests of both organizations.

Human Resource Planning

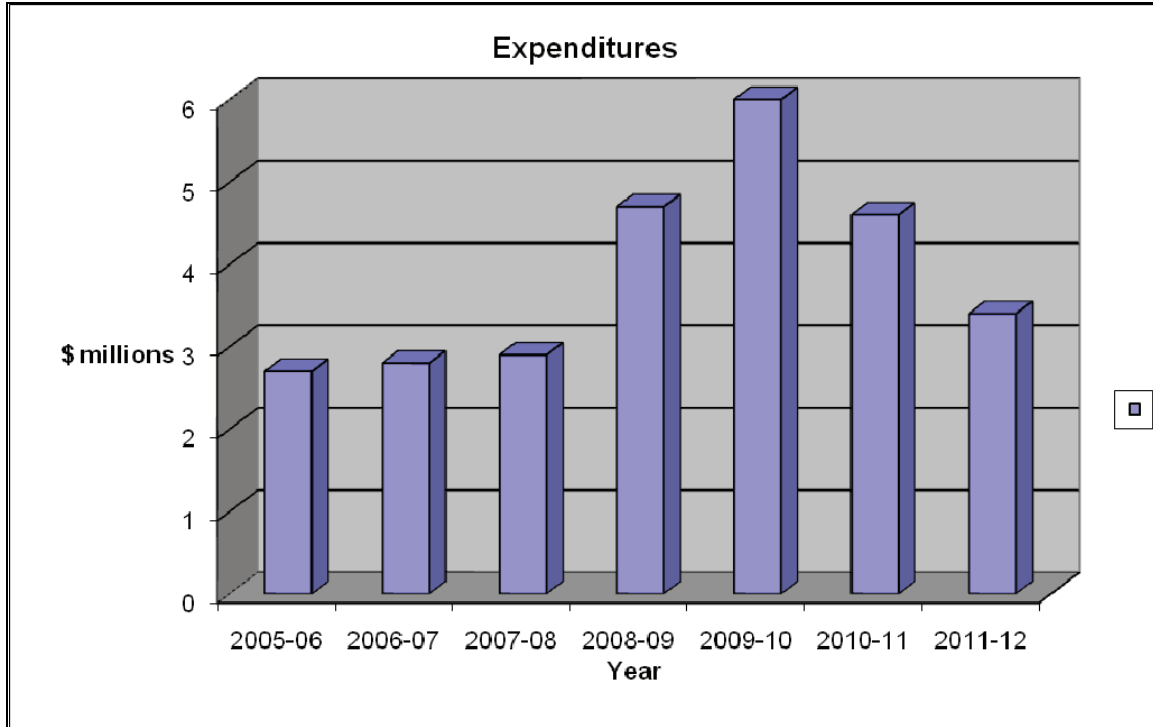
The success that the Commission has achieved is due in large part to its knowledgeable and stable workforce. But like all small agencies, it is difficult to retain employees when, for the most part, the size and flatness of the organization limit opportunities for advancement. The Commission will continue to stress effective human resource planning, anticipating potential staff turnover and developing staffing strategies to help ensure that knowledge is retained and vacancies are quickly filled.

Expenditure Profile

The financial resources of the Commission have increased for the three year period ending 2010-11. As mentioned earlier, the Commission sought and received additional funding to address the public interest hearing and the federal court appeal.

The Departmental Spending Trend chart below illustrates the Commission spending trend from 2006-07 to 2011-12. For the 2006-07 to 2008-09 periods, the total spending includes actual spending during the period from all parliamentary appropriations, including the carry-forward adjustments. For the periods from 2009-10 until 2011-12, the total spending corresponds to the planned spending. The increase in 2008-09 until 2010-11 is due to the increased funding received for conducting the public interest hearing and for responding to the Federal Court applications.

Departmental Spending Trend



2009-10 Allocation of Funding by Program Activities

The funding will be for complaints resolution program activity as well as for internal services.

Voted and Statutory Items

Voted and Statutory Items displayed in the Main Estimates (\$ millions)

Vote # or Statutory Item (S)	Truncated Vote or Statutory Wording	2008-09 Main Estimates	2009-10 Main Estimates
20	Program expenditures	3.1	5.7
(S)	Contributions to employee benefit plans	.3	.3
	Total for the Commission	3.4	6.0

SECTION II - ANALYSIS OF PROGRAM ACTIVITY BY STRATEGIC OUTCOME

SECTION II – ANALYSIS OF PROGRAM ACTIVITY BY STRATEGIC OUTCOME

2.1 Strategic Outcome

Conduct complaints against the Military Police and interference complaints by the Military Police are resolved in a fair and timely manner and recommendations made are implemented by the Department of National Defence and/or the Canadian Forces.

The following section describes the complaints resolution program activity and the expected result of this activity. This section also explains how the Commission plans on meeting the expected results and presents the financial and non-financial resources that will be dedicated to the program activity. In addition, information will be presented on the internal services activity.

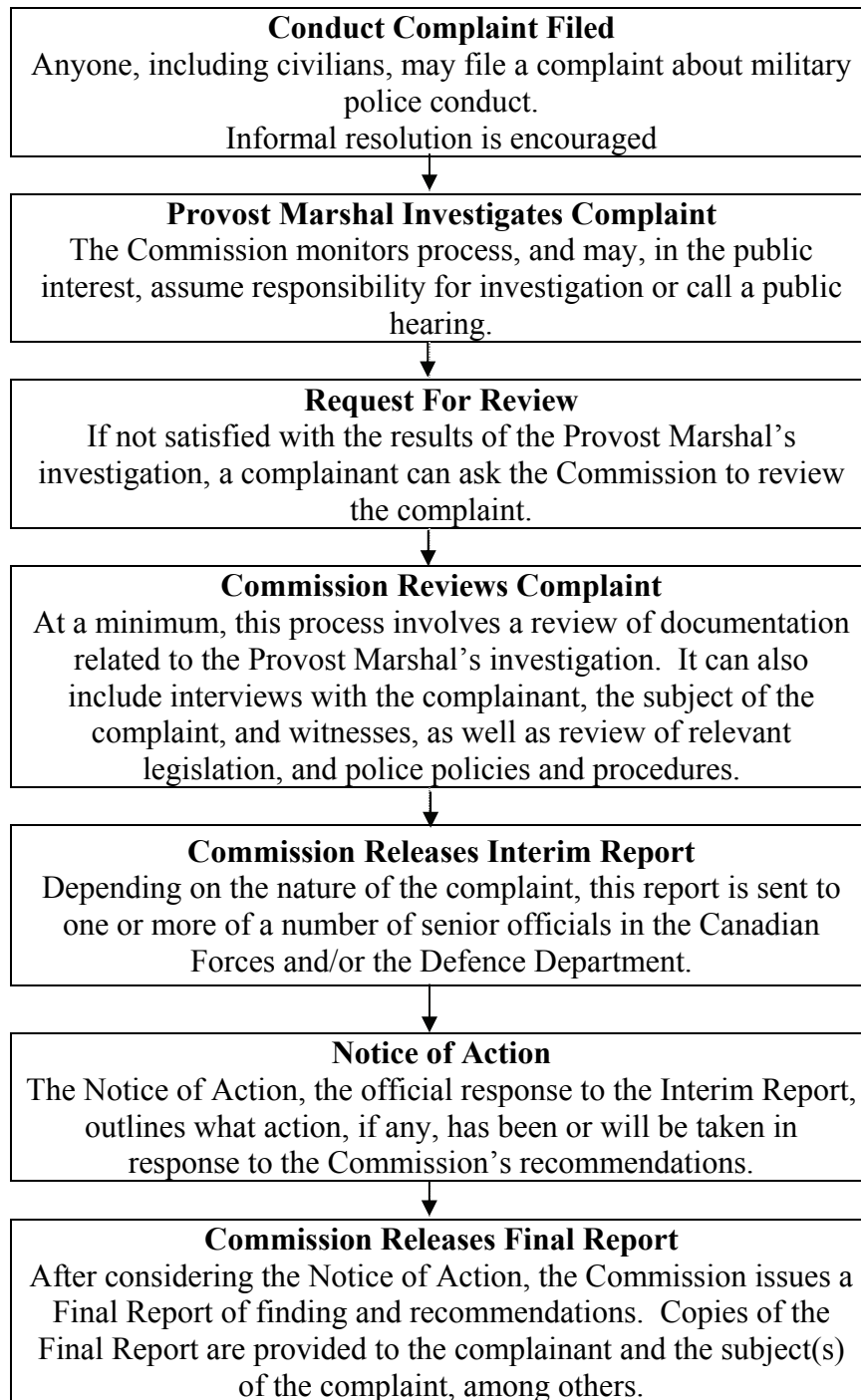
2.1.1 Program Activity – Complaints Resolution Program

Program Activity 1: Complaints Resolution					
Human Resources (FTEs) and Planned Spending (\$ millions)					
2009–10		2010–11		2011–12	
FTEs	Planned Spending	FTEs	Planned Spending	FTEs	Planned Spending
13	4.5	12	3.1	10	1.9

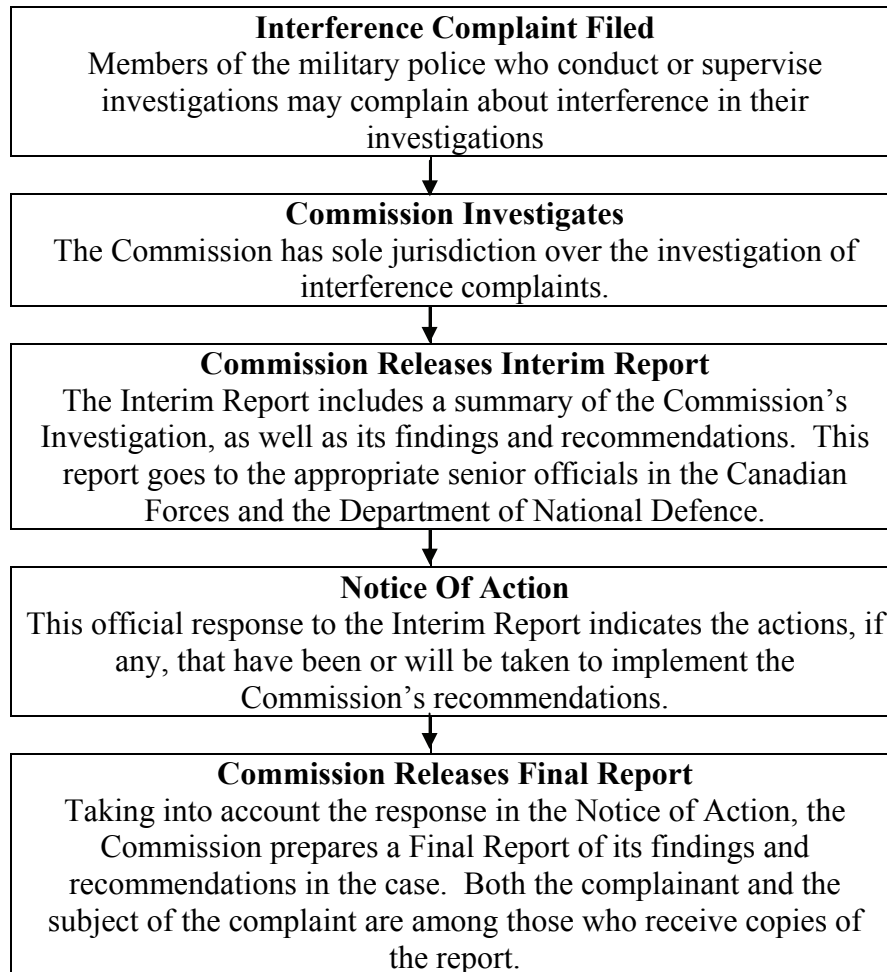
Program Activity Expected Results	Performance Indicators	Targets
Recommendations resulting from investigations of conduct or interference complaints are accepted by the Department of National Defence and/or the Canadian Forces	% of recommendations implemented	70%
Investigations of conduct or interference complaints are resolved within targeted time frames as established by the Commission Chair	% of investigations resolved within time frames	70%
Individual members receive remedial measures and/or improvements are made to military police policies and practices pursuant to investigations of conduct or interference complaints	% of individual members receiving remedial measures and/or improvements being made to policies and practices	70%
Presentations given on the mandate, role and responsibilities of the Commission	number of presentations given	10

The complaints resolution includes research, monitoring, planning, the conduct of investigations and the reporting of results.

Complaints About Police Conduct



Interference Complaints



Planning Highlights

In order to achieve the intended results, the Commission plans to undertake the following:

- Plan, conduct and report the results of its investigation – the Commission will continue to complete its investigations in accordance with the critical path developed specifically for each investigation. An exhaustive review of the critical path has just been completed and there are recommendations regarding process and timing. These recommendations will be implemented over the planning period to maintain the quality and timeliness of investigations and reports and to contribute to the refinement of the targets in the performance measurement framework.
- Operate effectively – The Commission intends to review its performance measurement framework and performance targets, based in part on the results of the critical path review, to more accurately reflect the changing scope, size and

complexity of the investigations undertaken. It is recognized, however, that setting targets is difficult because investigations differ drastically one from the other.

- Cost control – The Commission will continue to look at the complaints resolution process to identify opportunities for cost savings. Outsourcing of investigative services and expanding its roster of investigators, if necessary, will allow the Commission to better match investigator skill sets with investigative requirements.
- Increase transparency of Commission operations – the Commission will continue its outreach program and focus on increasing the number of stakeholders who are informed about the complaints resolution process and the fairness that the Commission brings to it.
- Cooperation – The Commission, as has been mentioned previously, requires the cooperation of others to be successful. The success of the Commission depends on how well the Commission establishes and maintains a cooperative environment and enables its recommendations to be implemented.

2.1.2 Program Activity – Internal Services

Program Activity 1: Internal Services					
Human Resources (FTEs) and Planned Spending (\$ millions)					
2009–10		2010–11		2011–12	
FTEs	Planned Spending	FTEs	Planned Spending	FTEs	Planned Spending
9	1.5	9	1.5	9	1.5

Program Activity Expected Results	Performance Indicators	Targets
Governance – recommendations from the MAF assessment are implemented	% of MAF recommendations implemented	100%
Planned management reviews are completed	# of management reviews completed	2 per year
Review and update of the policy suite completed	% of policy suite review and updated	100%
Human resource strategy and learning plans	Number of employees with learning plans	100%

In order to fully support the complaints resolution program, the Commission plans to undertake the following:

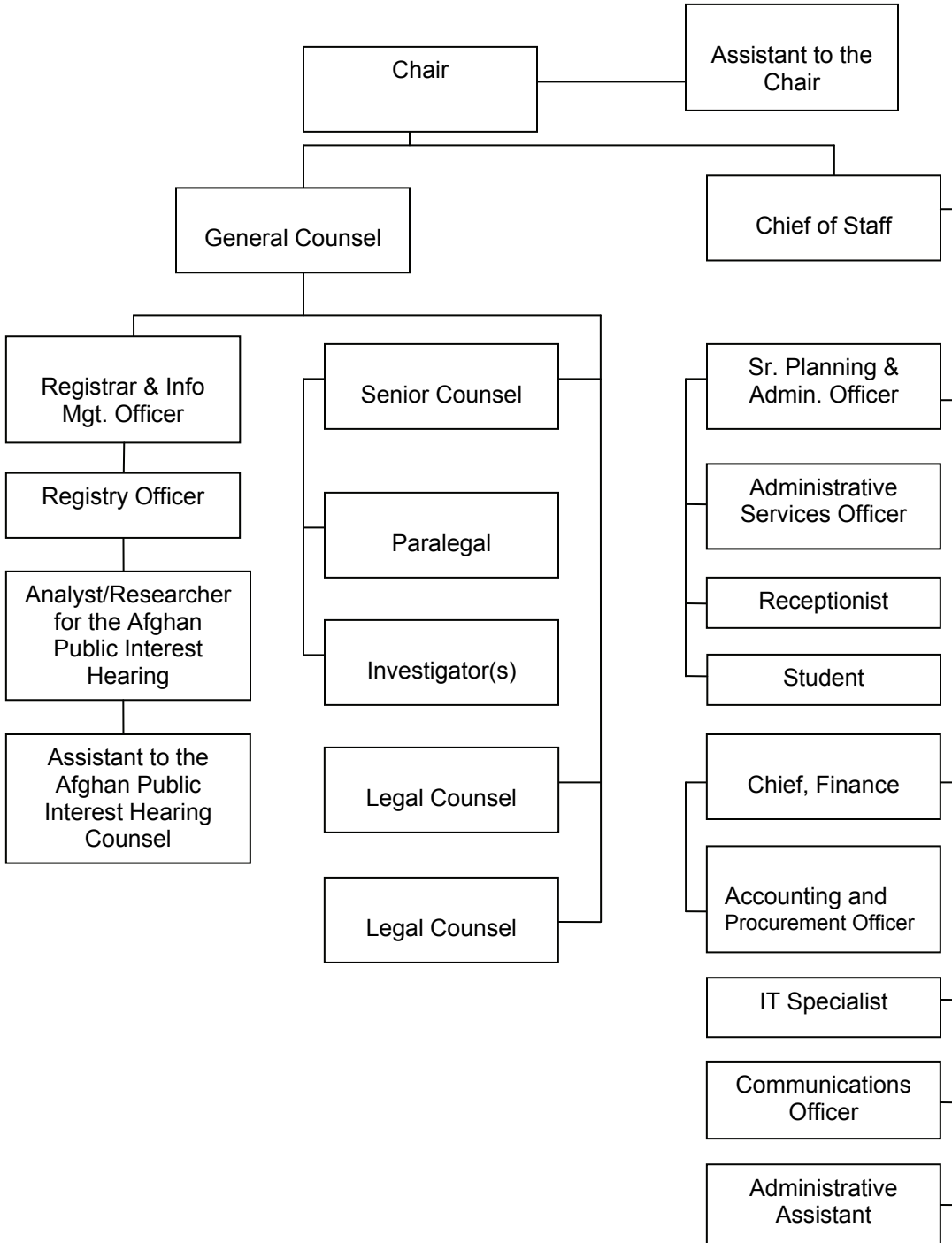
- Management Accountability Framework (MAF) - Respond, as appropriate, to the MAF recommendations of the assessment. The Commission will use these opportunities to better deliver its program, manage its resources and measure its performance.

- Planning & Reporting – The Commission will continue to develop its private and government partnerships for the delivery of human resource, access to information and privacy, records management and informatics and web services on a cost effective basis.
- Human Resources: The Commission will develop an action plan based on the Public Service Employee Survey.
- Evergreening program – The Commission evergreening program for information technology (IT) assets will continue to be managed and maintained to ensure that assets are acquired and retired on a planned basis to smooth its investment requirements from year to year.
- Risk Management and Management Reviews – The Commission will continue to maintain its risk management framework and will conduct internal reviews based on the high risk elements identified in the framework.
- Financial control – Respond, as appropriate to the two horizontal audits currently being conducted. The Commission will use these opportunities to strengthen its stewardship of its financial resources.

SECTION III - SUPPLEMENTARY INFORMATION

3.1 Other items of Interest – Organization Chart

ORGANIZATIONAL INFORMATION



3.2 Other items of Interest – How to reach us

- 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:
 - 613-947-5668 or e-mail media mpcc-cppm.gc.ca