



Canadian Forces
Grievance Board

Comité des griefs
des Forces canadiennes

Canada

CANADIAN FORCES GRIEVANCE BOARD

THE FIRST FIVE YEARS
2000-2005

OUR RAISON D'ÊTRE

— *A* TRANSPARENT, FAIR AND EFFICIENT GRIEVANCE PROCESS FOR
THE MEN AND WOMEN WHO SERVE IN THE CANADIAN FORCES

IMPETUS FOR CFGB'S ESTABLISHMENT

1995 : Release of BGen (ret'd) L.T. Doshen's Report: *A Report on the Study of Mechanisms of Voice/Complaint Resolution in the Canadian Armed Forces*.

1996 : The Armed Forces Council orders the development of a streamlined grievance system.

1997 : Release of *The Report to the Prime Minister on the Leadership and Management of the Canadian Forces*, by the Minister of National Defence, the Honourable Douglas M. Young

1997 : Release of the findings from the Somalia Commission of Inquiry, in which the Honourable Justice Gilles Létourneau reiterates the need for changes to the military justice system.

1998 : Amendments made to the *National Defence Act* - the amendments are designed to modernize and strengthen the military justice system, including the simplification of the grievance process and the creation of an external review board.

June 15, 2000 : The Board begins operations.

Like public servants and civilian corporate employees, Canada's military personnel have always been entitled to file grievances on almost any matter affecting them, including financial benefits, personnel evaluation reports, postings, medical issues, harassment or release from the Canadian Forces (CF).

The military grievance process, however, is not like civilian grievance processes: there are no associations, representation or unions in the military. Because of the unique nature of the military environment, most armed forces review such grievances within the chain of command, with no input from external reviewers.

Responding to a series of investigations and reports released between 1980 and 1997, the CF undertook initiatives that ultimately led to the creation of the Canadian Forces Grievance Board (CFGFB) through amendments made to the *National Defence Act* in 1998.

The Board began operations in June 2000. Since then it has dealt not only with the immediate expectations of its mandate, but has also added value to its role in two key areas. First, it has created a record of precedents that will greatly enhance the efficiency and effectiveness of future reviews. Second, it has identified and made recommendations with respect to some systemic shortcomings that were the subject of recurring grievances.

Many Canadians will be surprised to learn that Canada is a trail blazer with respect to military grievances: Ours is the first country in the world whose military personnel can turn to a grievance system that includes an external review, separate and independent from the chain of command in the Canadian Forces.

The Board is conscious of its responsibility for carrying out this pioneering role, and proud to play a part in helping to improve the working conditions of the men and women who protect our country and its citizens.

As a final note, on behalf of the Board Members and myself, I would like to gratefully acknowledge the help the Board has received throughout the years from its employees, as well as key players both internal and external to the Canadian Forces and the Department of National Defence, all of whom proved invaluable in the set up of this organization. The dedication and tenacity we witnessed in support of a new and improved grievance process made it possible for us to come as far as we have today. For that, the Board offers its sincerest appreciation.



DIANE LAURIN
CHAIRPERSON
CANADIAN FORCES GRIEVANCE BOARD

OUT OF THE STARTING BLOCKS

MISSION – TO REVIEW GRIEVANCES, IN ORDER TO RENDER FAIR
AND IMPARTIAL FINDINGS AND RECOMMENDATIONS IN A TIMELY
AND INFORMAL MANNER TO THE CHIEF OF THE DEFENCE STAFF AND
THE GRIEVOR.

PART 1

GREAT EXPECTATIONS!

Setting up a new organization is always challenging, but creating one for which there are great expectations but no precedents can be a daunting assignment indeed. The word “daunting,” however, is not among those that CFGB Chairperson Diane Laurin uses in recalling those first exciting days when she, as Vice-Chairperson, and the Board’s first Chairperson, Paul-André Massé, would meet in their temporary quarters to plan the tasks before them.

THE WEIGHT OF SETTING PRECEDENTS

“As the first independent civilian body in the world to be mandated with examining the grievances of military personnel,” she says, “we were deeply aware of the significance of our ultimate findings and recommendations. We had been given a role that could set precedents for the Canadian Forces, and we knew that we were being watched. Our main concern, however, was to establish, from the outset, our credibility in delivering excellent, thorough and trustworthy recommendations.”

ESTABLISHING CREDIBILITY

The Board’s credibility would be established with just how quickly it would fulfill its mandate. Prior to the CFGB’s creation, grievances began with the grievor submitting a grievance to his/her Commanding Officer, and which could then proceed up through seven levels within the chain of command. “Even if, at certain levels, a reviewer within that chain had no power or authority to address the grievance, that person could still give an opinion,” explains Ms. Laurin. Consequently, grievance reviews were a long and tedious process. “The result was that, by the end of December in our first year, our initial case load of 191 unresolved grievances included a number that were up to ten years old!”

“THE ESTABLISHMENT OF THE GRIEVANCE BOARD DEMONSTRATES THE IMPORTANCE BOTH THE GOVERNMENT AND THE PEOPLE OF CANADA PLACE ON JUSTICE AND RESPECT FOR THE HONOUR AND RIGHTS OF THE MEN AND WOMEN OF THE CANADIAN FORCES WHO CARRY OUT THEIR DUTIES COURAGEOUSLY AND FAITHFULLY, HELPING CANADIANS IN TIMES OF DOMESTIC CRISIS AND CONTRIBUTING TO INTERNATIONAL PEACE AND SECURITY.”

PAUL-ANDRÉ MASSÉ
FORMER CHAIRPERSON, SPEAKING AT THE BOARD’S OFFICIAL LAUNCH,
MARCH 1, 2000

ORGANIZATIONAL CHALLENGES

But before the young administrative tribunal could begin to examine that backlog, there were organizational challenges to resolve—not least of which were creating an organizational infrastructure and staffing.” Mr. Massé and I were appointed at the same time,” explains Ms. Laurin. “We were each given copies of the new *Act*, a cell phone, and that was it. No budget, no structure, no procedures. That being said, the significant support we received from key senior officials and officers within the Department of National Defence and the Canadian Forces was truly remarkable and very welcome.”

Ms. Laurin continues: “While we recognized that being charged with a mandate to design this organization as we deemed fit was an important advantage, it did not make it any easier to get off to a running start on the mandate itself. We literally had only a few months to set ourselves up before the law came into effect. And considering the Canadian Forces’ grievance backlog we inherited, the challenge was quite considerable.”

ACCOMMODATION AND STAFFING

The accommodation challenge was solved in stages, beginning with temporary quarters made available by the Department of National Defence (DND), and ending after two moves with the Board’s current quarters on Queen Street in Ottawa.

Staffing was a little more challenging. As Ms. Laurin points out, “Of course we knew from the *National Defence Act* which types of grievances would be eligible for our review, but we couldn’t anticipate the precise nature of the grievances that the Chief of the Defence Staff would send us. These grievances were, up until our establishment, largely internal to the CF, meaning they were not publicized, and further, they were unique in so much as they are part of an environment that is highly regulated. As a result, we couldn’t fully anticipate the types of skill sets we would need to deal with them.”

“We did realize, however, that there would be a need to have a portion of the staff who prepared the files for the Board Members to have a legal background, as well as experience in the Canadian Forces,” notes the Chair, “but the diverse skill sets we attracted in our employees has proven to be the real bonus for our work. We find ourselves extremely well-served by their different backgrounds.”

Since filling permanent positions could take as much as a year, Ms. Laurin recalls that “We borrowed public servants from other departments; we hired term employees; we dealt with consultants—and all of us were on a learning curve.” As longer-term or permanent employees came on-stream, continuous training was essential, but also affected productivity.

“I LOVE THE LAW. I LOVE SEEING WHERE IT CAN GO AND WHERE IT CAN MATCH COMMON LAW WITH THE QUEEN’S REGULATIONS AND ORDERS AND ALL THE SPECIFICITIES OF THE REGULATIONS RELATED TO THE FORCES. IT’S INTERESTING; IT’S NICE TO LEARN ABOUT THE CF, AND TO DO SOMETHING FOR CANADA.”

NAOMI LEVINE
BOARD MEMBER

THE PRIMARY GOAL MET, DESPITE A GROWING CASELOAD

Meanwhile, the caseload appeared to be growing exponentially. The Board's first annual report refers to the potential for 400 outstanding grievances from the previous system, plus a yearly potential for between 250 to 350 new ones.

Nevertheless, within those first two years, the Board met its primary objective: establishing credibility. The CDS at the time, General Baril, personally commented to Ms. Laurin that the first recommendations he received were "exceptionally well done." In September 2003, the Right Honourable Antonio Lamer observed in his First Independent Review that "The Grievance Board is to be commended for establishing in a relatively short time frame a grievance process that is recognized as providing well-reasoned and thorough findings and recommendations."¹

From the perspective of the Board's fifth anniversary, Ms. Laurin underlines the fact that "The Government of Canada and the Canadian Forces were very forward-thinking when they established the Board. To the best of my knowledge, I know of no other country that would accept to have an independent civilian body examining the military grievances. I am proud to be the co-founder of this organization."

THE CFGB'S AUTHORITY

The Board is a civilian administrative tribunal with quasi-judicial powers. To fully examine all information that could be relevant to a grievance, if it appears necessary, the Board can conduct hearings, summon civilian or military witnesses, and compel them to give oral or written evidence.

The Board deals with grievances referred to it by the Chief of the Defence Staff and it has the authority to conduct its reviews with total independence from the Department of National Defence and the Canadian Forces.

The Board reports its findings and recommendations to both the CDS and the grievor. Its recommendations may deal not only with the grievance itself, but with potential systemic changes that could alleviate a problem or issue Forces-wide.

ADMINISTRATIVE TRIBUNALS

Administrative tribunals provide a mechanism outside the courts for expeditious resolution of complex and particular matters. They act independently of the government and may have the power to make decisions through enabling statutes of Parliament. These powers enable them to determine the existence and scope of rights and obligations in a particular field of expertise, but must be exercised within the context of public interest and the specific circumstances that prevail in the tribunal's area of activity.

CFGB ANNUAL REPORT 2003

¹ The Right Honourable Antonio Lamer, *The First Independent Review by the Right Honourable Antonio Lamer P.C., C.C., C.D. of the provisions and operation of Bill C-25, An Act to Amend the National Defence Act*, September 3, 2003, p. 92

THE CFGB'S JURISDICTION

As set out in chapter 7.12 of the *Queen's Regulations and Orders – Referral to the Grievance Board*, the Board reviews grievances related to:

- Administrative action that results in forfeiture of, or deductions from, pay and allowances; reversion to a lower rank or release from the Canadian Forces;
- Application or interpretation of Canadian Forces policies relating to expression of personal opinions, political activities, and candidature for office, civil employment, conflict of interest and post-employment compliance measures, harassment or racist conduct;
- Pay, allowances and other financial benefits, and
- Entitlement to medical care or dental treatment.

The CDS shall also refer every grievance concerning a decision or an act of the CDS that relates to a particular officer or non-commissioned member to the Grievance Board for its findings and recommendations. As per section 29.12 (1) of the *National Defence Act*, the CDS may also refer any other grievance to the Board.

THE BOARD AS AN ORGANIZATION

Board Members and staff are civilians but they include former military personnel; this mix brings a broad range of knowledge and experience necessary for the Board's work. The Canadian Forces Grievance Board Members review case files and are the authors behind the findings and recommendations submitted to the Chief of the Defence Staff. The importance placed on their role cannot be underestimated. Their knowledge of the law, together with their experience and independence, are all integral components when faced with the variety of challenges put before them in relation to issues that previously have never been submitted to an external review process.

All Board employees, most notably the grievance officers and lawyers, support the Board Members. Legal counsel also provide advice to grievance officers and Members, including opinions on a wide range of issues. The corporate services group is responsible for, amongst other things, strategic planning, performance reporting, human resources and communications.



Board Members, February 2005. Back row (from left to right): Wendy Wadden, Michel Crowe and Gwen Hatch. Front row (from left to right): James Price, Diane Laurin and Naomi Levine.

HITTING OUR STRIDE

THE GRIEVANCE BOARD IS TO BE COMMENDED FOR ESTABLISHING IN A RELATIVELY SHORT TIME FRAME A GRIEVANCE PROCESS THAT IS RECOGNIZED AS PROVIDING WELL-REASONED AND THOROUGH FINDINGS AND RECOMMENDATIONS.

– THE LAMER REPORT

PART 2

EARLY SUCCESSES— INFRASTRUCTURAL PIONEERING—A YEAR OF TRANSITION

EARLY SUCCESSES

Common wisdom has it that when an organization is being set up “from scratch,” it will not really hit its stride until the third year. While in some respects this proved true for the CFGB, the Board nevertheless made considerable progress towards its two overall objectives: establishing a reputation for credible recommendations and being seen as an instrument for stimulating positive change in the military administrative justice system.

For example, in 2002 the Board had completed 120 grievance cases, for which it sent the CDS 300 findings and recommendations. The CDS responded by directing the CF to examine the Board’s recommendations to look into systemic issues concerning CF working conditions. In addition, he asked the CF to explore changes relating to procedural fairness in the grievance process itself.

“IN OUR 2000 ANNUAL REPORT, I MADE A STATEMENT TO THE EFFECT THAT OUR GOAL WAS TO BE AN INSTRUMENT OF CHANGE WITHIN THE MILITARY’S ADMINISTRATIVE JUSTICE SYSTEM CONTRIBUTING TO IMPROVED STAFF RELATIONS THROUGHOUT THE CF... WE ARE FIRMLY ON TRACK IN REALIZING THAT GOAL.”

PAUL-ANDRÉ MASSÉ
FORMER CHAIRPERSON, CFGB ANNUAL REPORT 2002

INNOVATIVE INFRASTRUCTURE

While proceeding with grievance reviews, the Board was simultaneously developing its infrastructure. Much energy went into articulating its mission, vision and value statements; implementing the new management procedures then being introduced across the federal public service; and designing systems that would expedite the Board’s internal processing of grievances. The primary cornerstones of this foundation are of course, the Board’s employees – from the grievance officers in the research and analysis sector, known as Operations, to the lawyers in legal services, and the various disciplines that make up the corporate services branch. The foundation was also cemented with the central receipt and registry that would ensure orderly processing of each grievance, as well as a Case Management and Time Tracking System.

THE CFGB'S VISION

The Board's grievance review skills and expertise will be recognized through the quality of its findings and recommendations. This vision will be realized when:

- The principles of integrity and fairness guiding the Board create a climate of confidence in the Canadian Forces;
- Members of the Canadian Forces are confident that the Board's findings and recommendations are objective, timely, fair and impartial;
- The work of the Board has a positive impact on the conditions of work of military personnel, and contributes to a better understanding and application of regulations, policies and guidelines; and
- Other public agencies, in Canada and abroad, consult the Board regarding their own grievance management and review processes.

A YEAR OF TRANSITION

2003 was a pivotal year with a significant event being the June departure of the Board's founding Chairperson, Paul-André Massé. Following this, came the Board's own detailed review of its operations, from its governance framework to its business practices. The resulting 2003 Operational Plan, borne of an in-depth operational review, became the blueprint for achieving another of the Board's major goals: eradicating the grievance-case backlog (grievances received at the Board prior to December 2003) and bringing the Board into a steady state of operation in 2005.

"UPON MY ARRIVAL IN 2003, I HAD A MAJOR MOUNTAIN TO CLIMB – THE CHAIR HAD ENGAGED US IN DEVELOPING AN OPERATIONAL PLAN TO ERADICATE THE GRIEVANCE BACKLOG. WE WERE EXPECTED TO COMPLETE THE BACKLOG OF CASES BY DECEMBER 2004 AND WE DIDN'T HAVE ENOUGH BOARD MEMBERS. BASICALLY, WE WERE EXPECTED TO GET THE PRODUCT OUT."

MURIEL KORNGOLD-WEXLER
DIRECTOR, GRIEVANCE ANALYSIS AND OPERATIONS

Another significant event was the September release of the first independent review of Bill C-25 (*An Act to Amend the National Defence Act*), conducted by the Right Honourable Antonio Lamer. "The Lamer Report," which included five recommendations put forth by the Board, also recommended other changes that would help the Board to continue improving the efficiency of the grievance-review process.

HOW THE CFGB DIFFERS FROM OTHER CF REDRESS MECHANISMS:

The CFGB is the only grievance authority that:

- has jurisdiction over grievances specified under the *National Defence Act* and lodged by current members of the CF;
- as an administrative tribunal, has a statutory mandate to review grievances in a quasi-judicial setting;
- the CDS must refer grievances; and
- must forward its findings and recommendations to the CDS for final adjudication.

REACHING OUT: A GROWING PRIORITY

Even in its first year, the Board recognized that to realize its vision, it would have to consciously reach out to its clients—the men and women serving in the armed forces—to familiarize them with the work it was doing to improve the quality of their day-to-day working environment, and to raise their awareness of the role they themselves can play by making their own concerns known.

Furthermore, if the Board was to become a model for other countries that might be interested in setting up external grievance systems for their own military, it would have to maintain an international profile. However, the organizational and workload priorities of the first three years naturally crowded out many of the best-laid plans for increasing these types of outreach.

By 2004, as internal priorities were realized, the Board was able to devote more time to communications initiatives. Among the most direct and rewarding have been the increasing number of visits to CF bases, where both Board Members and staff were able to speak, and hear—first-hand—questions and comments from the well-attended audiences of military personnel who had come to learn about the Board's role.

“THE AIM OF ITS OUTREACH IS TO DEMONSTRATE THAT THE BOARD DOES MAKE A DIFFERENCE TO GRIEVORS AND NON-GRIEVORS ALIKE IN THE CF, AND TO DISPEL SOME OF THE CONFUSION ABOUT ITS ROLE IN CONTRAST TO THOSE OF OTHER [REDRESS] MECHANISMS.”

FROM ENTRY TO EXIT: THE GRIEVANCE SYSTEM —A TWO-LEVEL PROCESS

LEVEL I: REVIEW BY THE INITIAL AUTHORITY (WITHIN THE CANADIAN FORCES)

A common misconception about the Canadian Forces grievance procedure is that a grievor can submit a grievance directly to the Board. In fact, the process begins not with the Board, but with the grievor's Commanding Officer (CO):

- **STEP 1:** The grievor submits the grievance to his or her CO.
- **STEP 2:** If the CO cannot act as the Initial Authority (IA), he submits the grievance to someone who can act as the IA, i.e. the next superior officer having the responsibility to deal with the matter. If the grievor is satisfied with the Initial Authority's decision, the grievance process ends there.

LEVEL II: REVIEW BY THE CHIEF OF THE DEFENCE STAFF

Grievors who are dissatisfied with the Initial Authority's decision may request to have their grievance reviewed by the CDS, whose decision is the final stage in the grievance process.

Grievors initiate this second level of review as follows:

- **STEP 1:** They submit their request for a second level of review.
- **STEP 2:** For those grievances that fall within the Board's mandate, the DGCFGA (Director General, Canadian Forces Grievance Authority) forwards the grievor's file (on behalf of the CDS) to the Canadian Forces Grievance Board.

THE BOARD'S PROCEDURAL RESPONSE

When the Board's Registrar receives the grievor's file from the DGCFGA, the Board will send a letter of acknowledgement to the grievor, and in accordance with the rules of procedural fairness, will disclose to the grievor the information the file contains. The Board will also invite the grievor to submit additional information related to the case. Should the Board acquire new information, it will be disclosed to the grievor.

PROCESSING THE GRIEVANCE

A grievance officer conducts an in-depth analysis, which may involve a lawyer, following which the assigned Board Member develops the final findings and recommendations. These are subsequently forwarded simultaneously to both the grievor and the CDS. In addition, should the

Board deem it necessary, it can hold formal hearings and call witnesses. The CDS, who may accept or reject the Board’s findings and recommendations, will communicate the decision(s) directly to the grievor, with a copy sent to the Board. If the CDS chooses to disagree with the Board, the reason(s) must be set out in the decision(s).

Since the Board’s inception, the CDS has accepted the majority of the Board’s findings and recommendations. In 2004, for example, when the CDS rendered 187 final decisions on grievances, he either partially or fully endorsed 158 of the Board’s recommendations to uphold or deny the grievance.

WHAT IS THE DIFFERENCE BETWEEN “FINDINGS” AND “RECOMMENDATIONS”?

As per the *National Defence Act* (S. 29.2), the Board makes findings of Facts and Law and then provides “recommendations” that result from these findings, so that the grievance can be resolved.

FACTORS THAT AFFECT THE TIME IT TAKES TO RESOLVE A GRIEVANCE

The Lamer Report recommended that grievances should be answered within 12 months of receipt by the CDS. The Board agrees that this is reasonable and works towards this deadline.

However, the Board must also deal with factors beyond its control that affect its ability to meet the deadline. These factors include:

- The expediency with which a grievance is referred to the Board once filed at the CDS level.
- The complexity of a grievance. Many grievances can be very complex, requiring Board staff to conduct more research and gather additional information.
- The promptness with which the Board receives a response from parties from whom it has requested additional information.
- The number of Board Members at any given time.

The Board’s primary duty is to evaluate each grievance using the necessary steps for preparing a fair and transparent review. In doing so, the Board must also assess the 12-month standard against external factors, such as procedural fairness, disclosure or public hearings—all of which can add time to the review process.

Since its creation in 2000, the Board has developed mechanisms that have enabled it to expedite the review process. These mechanisms fall into three key areas:

- Increased procedural efficiency;
- An established library of precedents; and
- An ongoing record of quality findings and recommendations.

A WELL-COORDINATED TEAM

ENSURING THE SMOOTH FUNCTIONING OF A NEW ORGANIZATION, AND MAINTAINING THAT RHYTHM, HAS BEEN FOR ME A MOST ENRICHING EXPERIENCE. IT DEMANDS CREATIVITY, THE MITIGATION OF RISK AND REAL TEAM WORK. IN THE FINAL ANALYSIS, AND AFTER MANY CHALLENGES, THERE IS A SENSE OF OWNERSHIP AMONG THE STAFF, KNOWING THEY CONTRIBUTE SIGNIFICANTLY TO THE WORK ENVIRONMENT AND THE BOARD'S OBJECTIVES.

– FRANÇOYSE LAURIN, EXECUTIVE DIRECTOR

PART 3

A TEAM THAT KNOWS WHERE IT'S GOING

In terms of setting up a team, from the beginning the CFGB enjoyed several unique advantages. First and foremost, whether they joined as Board Members, as lawyers, as grievance officers or as administrative staff, everyone understood what the Board was expected to achieve; everyone bought into the value of those goals, and everyone wanted to help reach them.

MORE THAN “JUST A JOB”

This common attraction, amongst others, probably stemmed from the fact that a good number of the staff and Board Members had personal connections to the Canadian Forces. Many had been employed in the CF, either as military personnel or as civilians. Others were spouses or relatives of CF personnel. Consequently, working for the CFGB was not seen as “just a job” but as an opportunity to contribute to the future well-being of the CF by addressing some of the issues that they knew could affect the quality and the morale of military life.

These incentives remained constant even though staff turnover was, for the first few years, high. Given the exigencies of the Board's immediate needs, it had to rely on a large proportion of seconded and contract employees. High turnover resulted, since many would return to their original employers, while others would be replaced as the competition process identified permanent staff. Not surprisingly, among those who wished to stay, several (today known as “The Pioneers”) were successful in the competitions.

THE EXCITEMENT OF GROUND-BREAKING

Complicating the classification and staffing processes were the unpredictable aspects of the Board's work. As the **CHAIRPERSON, DIANE LAURIN**, points out, the Board's mandate of reviewing military grievances outside the chain of command was precedent-setting. Consequently, in terms of identifying job descriptions, “It was difficult as there were no models to fall back on: no competency profiles to help us articulate our requirements in relation to human resources.”

Perhaps this absence of a model was more a plus than a minus. Former **SENIOR GRIEVANCE OFFICER MARLENE MACDONELL**—one of the “pioneers”—remembers how stimulating that start-up atmosphere was: “It was all brand new when we started, with five or six officers all coming from different backgrounds. We didn't have firm procedures yet, but we had been sent 50 grievance files, and we had to become operational immediately. We had a quick training process, and some of us had helpful backgrounds, but basically this was a new approach to grievances and we were all in the same boat. It was exciting!” **YOLAINE GAUTHIER, SENIOR ANALYST, PERFORMANCE MEASUREMENT AND STRATEGIC PLANNING**, says much the same, in different words: “It was a bit overwhelming—building the tracks as we were running. That's what it felt like, and we had to build it together. Even now, it's still a lot of work. But it's rewarding and it's challenging.”

CHALLENGES! OPPORTUNITIES! TEAMWORK!

These words come up often when staff members talk about why they love their work. Both **ADMINISTRATIVE OFFICER MARTINE PELLETIER** and **ACTING HUMAN RESOURCES MANAGER MIREILLE ROYER**, who joined the Board in its first year, used these words when describing why they joined. Martine was looking for the challenges that come with a new organization. She found them: “You learned a lot,” she says. “As Administration Officers, we took care of everything ourselves: we learned about contracts, training, and security. We were responsible for accommodation, inventory, even ID cards. I had to learn everything from scratch. It was an accomplishment,” she reflects proudly.

Mireille Royer had similar career goals. “I had been working in staff relations for two years and wanted to diversify—to be more of a generalist. I wanted variety and the room to learn different things I hadn’t touched on before.” For example, Mireille found herself dealing with such issues as staffing and performance pay for Executive (EX) staff positions. “As a Human Resources Manager,” she points out, “You have to learn a lot and find resources: Remember, we have 13 disciplines here!” Given these challenges, would she take on a similar position again? “Probably...there’s a certain satisfaction in doing that. Challenges never bothered me—what’s important is teamwork.”

SENIOR LEGAL COUNSEL, GARY WETZEL, who reviews the legal aspects of the analyses conducted by staff and the findings and recommendations written by Board Members, was actually reluctant to apply for a job with the Board when the first opportunity came up. He eventually accepted an offer in 2001, but explains why it took so long to make the move: “One reason I wasn’t enticed into making an application in 1999 was that I thought that grievances would be dull and there wouldn’t be much legal input. I was so wrong! A typical grievance file has far more pitfalls and non-obvious issues than a file from the public complaining about, say, treatment by the police.”





BEST OF ALL—THE CONVICTION THAT THEY ARE MAKING A DIFFERENCE

While the CFGB is still young—and therefore still has, as the poet Robert Frost put it—“promises to keep, and miles to go before I sleep,” the Board’s team is unanimously proud that, in less than five years, it has already made a difference. Everyone who works here comments on the value of the work they do, and the satisfaction of the contribution that their portion of the work gives them.

Perhaps this conviction that they are making a difference is best summed up by the Board’s **VICE-CHAIRPERSON, JAMES PRICE**. Having served 11 months as a Team Leader and in December 2004 accepted the Vice-Chairperson appointment, he brings the perspectives of two positions to his assessment of the Board’s value to CF personnel.

“I see that we are making a huge contribution,” he says. “I see that it is largely because of the Board’s efforts. There has been a change in the conditions of work within the Canadian Forces.”

HOW THE BOARD IS MAKING A DIFFERENCE

THE PRIMARY THING THAT I SEE WE ARE DOING IS CONTRIBUTING TO BETTER WORKING CONDITIONS FOR THE CANADIAN FORCES: A MORE-EQUITABLE, MORE-FAIR WORKPLACE AND A BETTER REGULATORY FRAMEWORK.

— JAMES PRICE, VICE-CHAIRPERSON

ALERTING THE CDS TO SYSTEMIC ISSUES

By the end of its first year, the Board realized that certain types of issues were coming up again and again. These recurrences are often caused by rules and regulations that were once appropriate for the military workplace, but that have not yet been adjusted to address changing working conditions—let alone changing social mores.

It is important to keep in mind that in the military environment, rules and regulations must of necessity be followed rigidly. Adjusting employment policies to address variations is therefore much more onerous than it is in the private sector.

The Board's mandate, however, does place it in an ideal position to identify systemic causes. Its full-time focus on grievances, its in-depth analysis of every case, its grievance-tracking systems, its ability to investigate all aspects of the apparent cause of a particular grievance, and its ever-growing library of precedents make it easy to recognize when certain types of grievances seem to be clustering around a systemic stumbling block.

The Board therefore decided that, where recurring grievances appeared to be triggered from systemic issues of which the CDS might be unaware, it would be useful to flag them in the findings and include recommendations that the CDS consider further investigation. If DND could address a given issue, the likely result would be better working conditions, improved morale, and ultimately, elimination of future grievances related to the subject.

Consequently, at any given time, the Board keeps in mind issues that might be ameliorated through systemic changes. Highly complex issues such as those related to Universality of Service, for example, require considerable investigation before the Board can suggest avenues for future investigation by the CF. In fact, the Board is currently investigating the systemic implications of that particular area, and therefore has not yet forwarded systemic recommendations to the CDS. The Board has, however, completed many investigations that have enabled it to include with its recommendations possible systemic areas for the CDS to consider further. The CDS' responses to such recommendations from the Board have been largely positive.

"THE GRIEVANCE SYSTEM IS, TO SOME DEGREE, A BAROMETER OF CURRENT ISSUES OF CONCERN TO MEMBERS OF THE CF. SEVERAL RECURRING GRIEVANCES ON THE SAME ISSUE MAY INDICATE A POOR POLICY, OR THE UNFAIR APPLICATION OF A MISUNDERSTOOD POLICY. IN SOME CASES, THE UNDERLYING LAW OR REGULATION MAY BE OUT OF DATE OR OTHERWISE UNFAIR.

THE BOARD FEELS A PARTICULAR OBLIGATION TO IDENTIFY ISSUES OF WIDESPREAD CONCERN WHICH MAY WELL HAVE IMPLICATIONS FOR MORALE FOR MEMBERS OF THE MILITARY, AND WHERE APPROPRIATE, PROVIDE RECOMMENDATIONS FOR REMEDIAL ACTION TO THE CDS."

The Board believes that its systemic recommendations are among the major contributions it can make towards improving the quality of working life in the CF. Towards this end, the CDS response has been largely favorable. While not always in agreement on every recommendation, in the many cases where the CDS has agreed, he has directed the appropriate DND or CF authority to investigate further.

The following cases illustrate the types of recurring issues that the Board has recommended for further investigation, and describe the CDS' responses.

ACTING RANK/PAY

THE BOARD'S FINDINGS AND RECOMMENDATIONS

The Board issued findings and recommendations on this issue in several grievances. In most of its findings submitted to the CDS, the Board stated that it is unfair to have members perform without receiving the pay associated with the rank of the position they fill.

THE CDS' RESPONSE

- The CDS has in all instances responded by fully or partially agreeing with the Board.
- In response to the Board's systemic recommendation that the CDS clarify when exceptions to the Acting Rank policy should be granted, the CDS has ordered a review of the Acting Rank policy (which includes the Acting While So Employed policy).
- He also directed that certain grievors be granted the acting rank that they sought, even though they did not satisfy all of the criteria specified in CF policies. In these cases, the grievors lacked the formal training qualifications required for the rank of the positions that they filled temporarily.

SUBMARINE SPECIALTY ALLOWANCE (SUBSPA)

THE BOARD'S FINDINGS AND RECOMMENDATIONS

The Board issued findings and recommendations in nine separate grievancesto date, all dealing with entitlement to be paid the SUBSPA. Unfortunately, as a result of the explicit regulatory criteria, the Board has been unable to recommend to the CDS that he grant the SUBSPA to any of these grievors. However, the Board is very cognizant of the inherent unfairness and inequity of the current system and the negative effect that it must undoubtedly have on the morale of affected members.



THE CDS' RESPONSE

- In line with the findings of the Board, the CDS has consistently denied grievances related to entitlement to SUBSPA for those in shore-based, non-designated positions.
- He has acknowledged that the current SUBSPA framework is a source of dissatisfaction for submariners and that more positions merit designation than the current cap allows.
- He has reported that a review of the SUBSPA system is actively under way, but declined to make any changes to the current system until he has received the results of this review.

RECOVERY OF AN OVERPAYMENT—WRITE-OFF OF A DEBT

THE BOARD'S FINDINGS AND RECOMMENDATIONS

The Board has dealt with two cases in particular that related to pay rates where overpayments were made due to an error outside of the CF members' control.

In both cases, the CF told the grievors that the overpayment must be recovered, which in turn gave rise to the grievances. The Board found that the relevant legislation was clear: (subsection 155(3) of the *Financial Administration Act*, and Article 203.04 of the *Queen's Regulations and Orders for the Canadian Forces (QR&O)* with respect to the recovery of money by the Crown): Overpayments must be recovered by the CF if at all possible. Therefore, the Board recommended that the CDS deny the grievances.

THE CDS' RESPONSE

- Although CF members are responsible for ensuring that their pay is correct, the Acting CDS considered that the change in the grievor's situation was initiated by the CF, and that the grievor questioned the accuracy of his pay.
- In both cases, the CDS and Acting CDS directed the ADM (Fin CS) to explore the feasibility of a submission to the Governor in Council through Treasury Board to seek remission of the debts.
- The Acting CDS also directed the ADM (Fin CS) to explore the feasibility of amending the *National Defence Act* and the *Canadian Forces Superannuation Act* (CFSA) to adopt a standardized and comprehensive approach for authorities to deal with the recovery of overpayments.

BASE SHELTER VALUE (BSV) FOR FAMILY HOUSING

THE BOARD'S FINDINGS AND RECOMMENDATIONS

In two cases, the Board determined that the BSV had been correctly calculated, and therefore recommended denial of the grievance. In terms of systemic changes that could prevent future grievances, it also noted that the CF could have given better information about the factors that would affect the claimants. The Board suggested that CF authorities fully publicize and explain in detail any consequences of changes to Quality of Life policies, particularly those involving changes to the implementation of housing and living allowances.

THE CDS' RESPONSE

- The CDS agreed and directed the ADM (HR-Mil) and the ADM (Infrastructure and Environment) to consider these broader recommendations and report the results to him.

RATES OF PAY ON TRANSFER TO THE REGULAR FORCE FROM THE RESERVE FORCE

THE BOARD'S FINDINGS AND RECOMMENDATIONS

A number of grievances clustered around the issue of pay changes that occur when a grievor has been transferred from Reserve Force to the Regular Force. In three of four cases, the Board found that the grievor's claim should be granted.

"I LOVE BEING A BOARD MEMBER. IT GETS AT YOUR HEART— IT GETS INTO YOU THAT IT'S NOT JUST A BOARD MISSION BUT A PERSONAL ONE TO DO THE BEST YOU CAN, NOT ONLY FOR YOUR COUNTRY, BUT FOR THE PEOPLE WHO KEEP YOU SAFE."

WENDY WADDEN
BOARD MEMBER

THE CDS' RESPONSE

Among the Board's recommendations related to particular aspects of these cases, the CDS agreed with the following recommendations and asked the ADM (HR-Mil) to consider the Board's findings that:

- an existing study team consider the merits of a single-entry pay regulation with a broader scope and more flexibility to adapt pay to past qualifications and that experience or merit be considered;
- the CF adjust its administrative procedures and documents to distinguish between transfer and enrolment, in conformity with the *National Defence Act*, both in official documents and in internal procedures;
- the CDS take measures to complete the review of the Canadian Forces pay structure and regulations that deal with vested rights and former service (which the CDS had directed in January 2002 in relation to a similar case).

"THE GRIEVANCE OFFICER IS RESPONSIBLE FOR PREPARING THE ANALYSIS REPORT TO ASSIST THE BOARD MEMBER IN MAKING THEIR FINAL FINDINGS AND RECOMMENDATIONS. OUR JOB, AS GRIEVANCE OFFICERS, IS TO PREPARE THE SUPPORTING FILE FOR THE BOARD MEMBERS' REVIEW. I TRY TO BE AS COMPLETE AS POSSIBLE. I DO THE BEST THAT I CAN WITHIN OUR MANDATE, BECAUSE I CARE ABOUT WHAT THE BOARD PRODUCES. I LOVE DOING THIS JOB."

RENÉ BERGERON
SENIOR GRIEVANCE OFFICER

More on the individual grievances that make up the Board's work can be found in regular updates as part of the case summaries section on the website at www.cfqb-cqfc.gc.ca. Issues range from harassment, to in-vitro fertilization, same sex couples, drug possession and compassionate travel allowance, to name a few.

"OFTEN GRIEVORS MAY NOT RECOGNIZE THE BROADER AND POSSIBLE SYSTEMIC IMPLICATIONS SURROUNDING THEIR GRIEVANCES, BOTH LEGALLY AND ADMINISTRATIVELY. AS SUCH, WE HAVE MADE IT OUR DUTY TO BRING THIS ADDITIONAL INFORMATION FORWARD."

DIANE LAURIN
CHAIRPERSON, ADDRESSING CF CHIEF WARRANT OFFICERS
CONFERENCE, QUÉBEC CITY, APRIL 2005

FULL-SPEED AHEAD

THE BOARD IS BECOMING A MATURE ORGANIZATION. WE HAVE A RAPIDLY EVOLVING BODY OF KNOWLEDGE AND PRECEDENTS, AND HIGHLY SKILLED MEMBERS AND STAFF...THE BOARD IS A UNIQUE SYSTEM. IT HAS A DISTINCT VALUE, AND IT WORKS.

– DIANE LAURIN, CHAIRPERSON

THE MAIN PRIORITY: COMMUNICATION

There is broad agreement with the Chairperson's decision to make communication a major priority. As she pointed out in an April 2005 speech, "Today, five years into our mandate, experience has shown that the Board remains relatively unknown outside the immediate circle of the CF grievance process. In fact, many of the members I've met at various events know very little of our existence and believe us to be with the Department of National Defence."

This is not a surprise to Board Members or staff, who have encountered this confusion not only in the telephone calls and e-mails they receive from potential grievors, but also in the conversations they have with both senior military personnel and the many CF employees.

FIONA NELSON, ACTING CHIEF, COMMUNICATIONS SERVICES remarks: "We have always tried to place communications at the forefront of our activities as we fully recognize the confusion that's out there among the CF members, even with a two-level process. Board priorities also made it that production would have to come first, understandably. Today, however, we're arriving at steady state, and we're in a far better position to reach out to our stakeholders and show them the tangible results of our work. Our efforts are definitely being bumped up."

The Board will continue to focus of its communications efforts on the communication channels already in place within the military. Also, visits to bases, which have provided invaluable opportunities for interaction and sharing of perspectives, will continue to be a major venue for communication. CF members, regardless of rank, will have opportunities to attend Town Halls, to meet with Board personnel, and to ask questions and contribute comments. Other communications initiatives will include the regular posting of case summaries on the Board's website (www.cfcb-cgfc.gc.ca), and more presentations by the Chairperson, the Vice-Chairperson and senior management at key conferences and seminars.

SUCCESSES TO SAVOUR; NEW GOALS TO MEET

During 2005, the year of its fifth anniversary, the CGFB took a few moments to savour the satisfaction of challenges met. They are many. The Board has reached its objective of putting in place a fair process, balancing both quality and expediency, all the while finishing the review of the inherited backlog. But perhaps most significant for Board Members and staff is the knowledge that the Board has firmly established its credibility for rigorous, fair, impartial analyses, carefully considered conclusions, and innovative contributions to the ongoing improvement of working conditions in the Canadian Forces.

But being by nature a pro-active organization, even as the Board celebrates its achievements to date, everyone involved is focused on the new challenges ahead. The organization recognizes that its "pioneer" work is far from over – the vision established at the outset still has objectives to be met but employees and Board Members are working towards them together. Furthermore, there is broad consensus about what needs to be done next, and a feeling of optimism fed by the confidence built by previous successes. The Board will truly be successful as an instrument of change when CF members know there is an impartial body to which they can turn and through which results can be achieved.



Board Employees, CFGB Annual Report 2001.



Board Employees, CFGB Annual Report 2004.

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