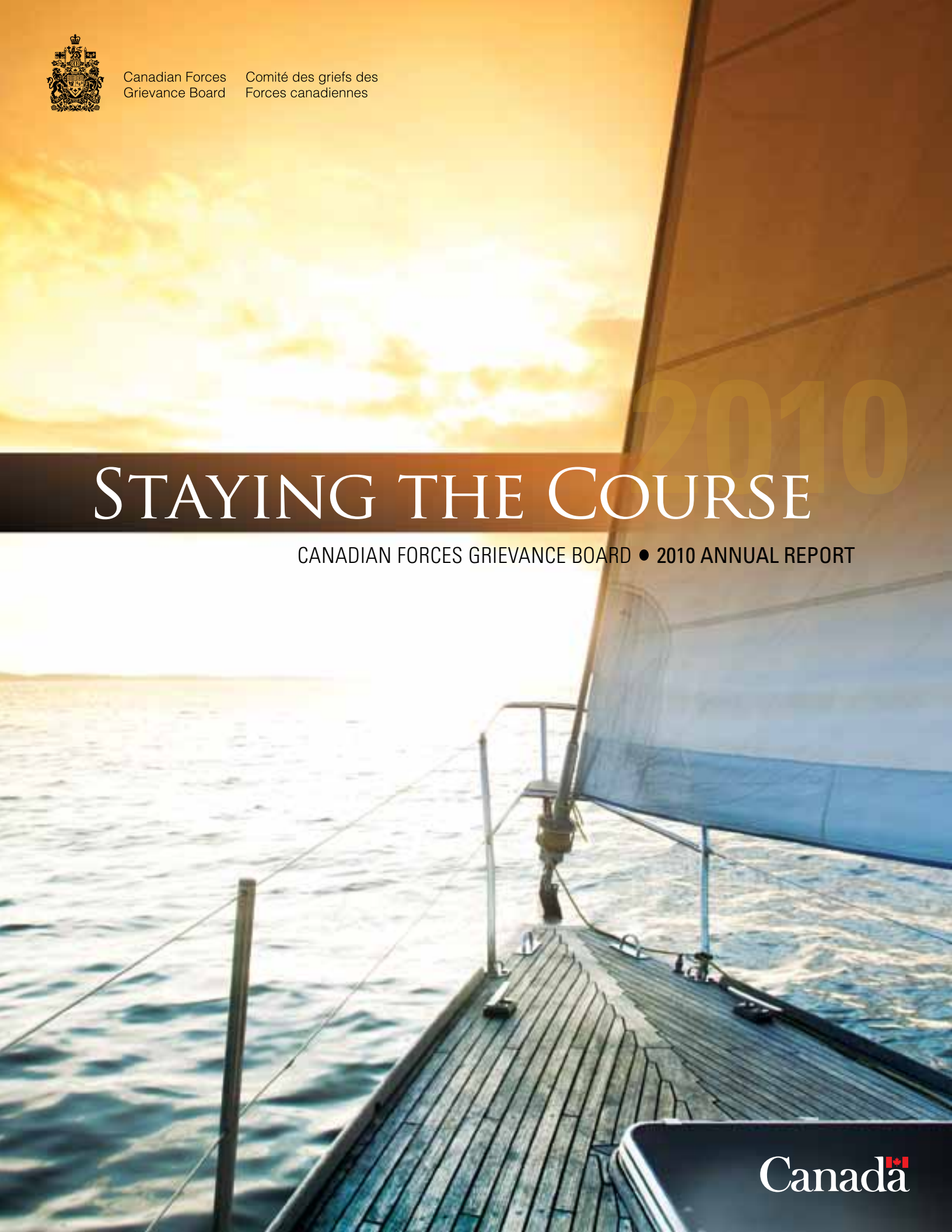


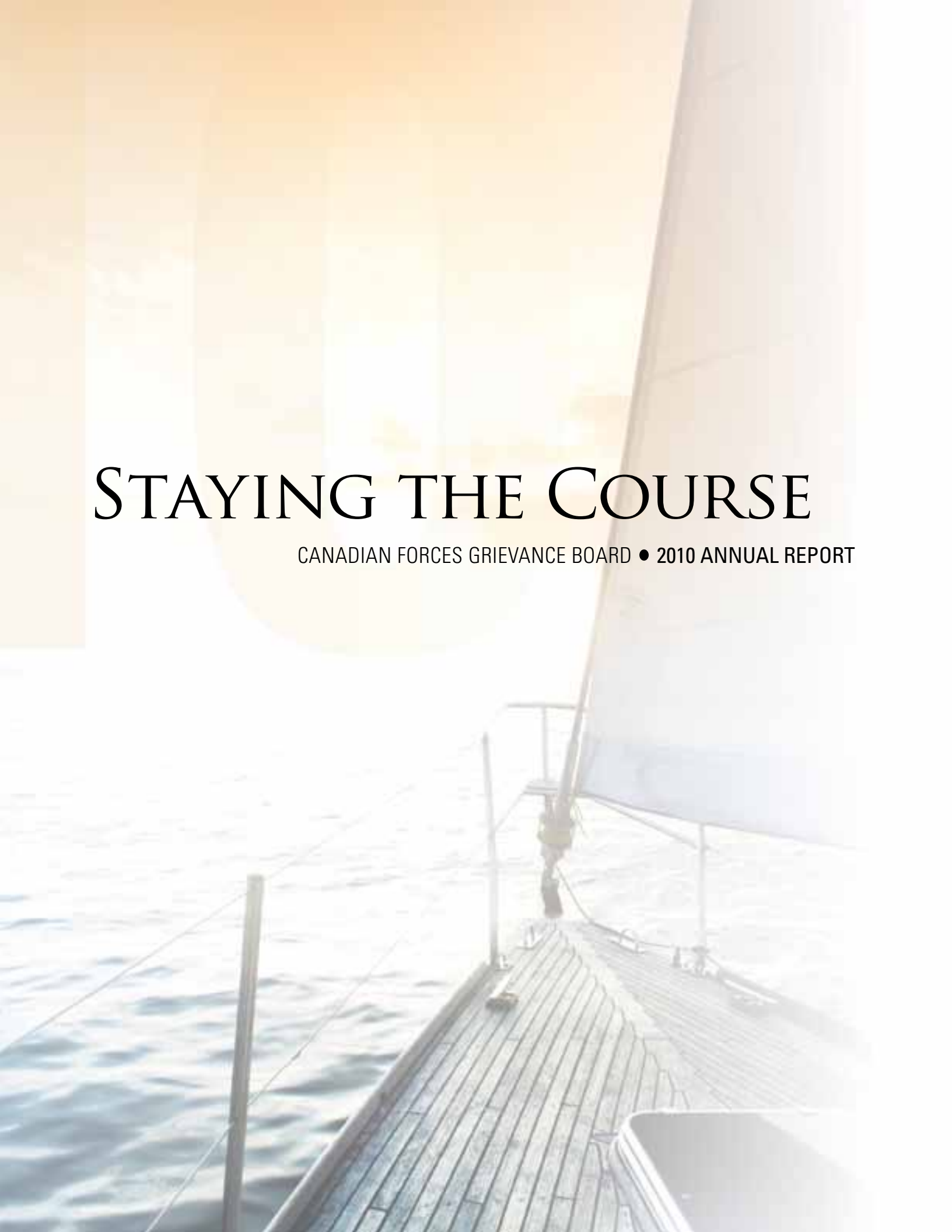
Canadian Forces Grievance Board
Comité des griefs des Forces canadiennes

Staying the Course

CANADIAN FORCES GRIEVANCE BOARD • 2010 ANNUAL REPORT

Canada

Canadian Forces Grievance Board 2011
Cat. No. DG1-2010
ISBN 978-1-100-52959-2



Staying the Course

CANADIAN FORCES GRIEVANCE BOARD • **2010 ANNUAL REPORT**

March 31, 2011

The Honourable Peter MacKay
Minister of National Defence
National Defence Headquarters
MGen Georges R. Pearkes Building
101 Colonel By Drive
Ottawa, Ontario
K1A 0K2

Dear Minister,

Pursuant to section 29.28(1) of the *National Defence Act*, I hereby submit the 2010 annual report on the activities of the Canadian Forces Grievance Board for tabling in Parliament.

Yours truly,

Bruno Hamel
Chairperson

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MESSAGE FROM THE CHAIRPERSON & CEO

I am pleased to submit the Canadian Forces Grievance Board 2010 Annual Report.

In 2010, the Board implemented a number of initiatives that were put in place in 2009. These initiatives were intended to both improve the Board's operational and management processes and to prepare us to deal with proposed changes in the military grievance resolution process.

With continuity in mind, as indicated by the title of this report (and suggested by the cover), the Board "*stayed the course*" towards achieving the objectives generated by these initiatives, while making some necessary adjustments.

One change was the update of the Board's strategic approach to reflect a clearer, more comprehensive alignment with our mandate. We also instituted a series of practical measures designed to adjust several operational and management procedures to better meet our objectives, particularly in the area of operational efficiency. You will find details within the pages of this report.

More importantly, in 2010 we contributed to the development of a new, highly promising model for the referral of grievances to the Board called the "*principled approach*." Launched by the Canadian Forces on a six-month trial basis, this model provides the benefit of an external and independent review by the Board to all grievances reaching the Final Authority level and which could not be resolved by the Canadian Forces. Currently, only 40 % of the grievances reaching the Final Authority are required to be submitted to the Board for its review. We strongly support the "*principled approach*" as we believe it will significantly increase the fairness and transparency of the military grievance process, while optimizing the Board's contribution to this process. During the last months of 2010, we made preparations for the implementation of this pilot project and worked to establish framework conditions to ensure its success.

We are also pleased that our request for a name change in Bill C-41 is before Parliament and hopefully will become law in the near future.

Another major success in 2010 was the significant reduction of the average time for the review of grievances at the Board. Our efforts to improve timeliness have contributed to the overall efficiency of the military grievance process.

Finally, as Chairperson, I would like to applaud the dedication and professionalism of the Board's team. Members and staff have responded enthusiastically during this period of transition and major change. Their unconditional support and perseverance have been remarkable and are clearly reflected in the quality of our work.

That being said, our primary goal remains to contribute, to the greatest extent possible, to the effectiveness, fairness and transparency of the military grievance process.

Bruno Hamel
Chairperson

The Canadian Forces Grievance Board

THE GRIEVANCE CONTEXT

Section 29 of the *National Defence Act* (NDA) provides a statutory right for an officer or a non-commissioned member who has been aggrieved, to grieve a decision, an act or an omission in the administration of the affairs of the Canadian Forces (CF). The importance of this broad right cannot be overstated since it is, with certain narrow exceptions, the only formal complaint process available to CF members.

Since it began operations, in 2000, the Canadian Forces Grievance Board (CFGB) has acted as the external and independent component of the CF grievance system.

The Board reviews all military grievances referred to it by the Chief of the Defence Staff (CDS), as stipulated in the NDA and article 7.12 of the *Queen's Regulations and Orders for the Canadian Forces* (QR&Os). Following its review, the Board submits its findings and recommendations (F&R) to the CDS, at the same time forwarding a copy to the grievor; the CDS is the final decision-maker. The CDS is not bound by the Board's report, but must provide reasons, in writing, in any case where the Board's F&R are not accepted. The Board also has the obligation to deal with all matters as informally and expeditiously as the circumstances and the considerations of fairness permit.

The types of grievances that must be referred to the Board are those involving administrative actions resulting in deductions from pay and allowances, reversion to a lower rank or release from the CF; application or interpretation of certain CF policies, including those relating to conflict of interest, harassment or racist conduct; pay, allowances and other financial benefits; and entitlement to medical care or dental treatment.

The CDS must also refer to the Board grievances concerning a decision or an act of the CDS in respect of a particular officer or non-commissioned member. The CDS also has discretion to refer any other grievance to the Board.

Mission

The Canadian Forces Grievance Board provides an independent and external review of military grievances. In doing so, the Board strengthens confidence in, and adds to the fairness of, the Canadian Forces grievance process.

Mandate

The Canadian Forces Grievance Board is an independent administrative tribunal reporting to Parliament through the Minister of National Defence.

The Canadian Forces Grievance Board reviews military grievances referred to it pursuant to section 29 of the *National Defence Act* and provides findings and recommendations to the Chief of the Defence Staff and the member who submitted the grievance.

BOARD STRUCTURE

The Board consists of Governor in Council (GIC) appointees who, alone or in panel, are responsible for reviewing grievances and issuing F&R.

Under the NDA, the GIC must appoint a full-time Chair, at least one full-time Vice-Chair, and one part-time Vice-Chair. In addition, the GIC may appoint any other full or part-time members the Board may require to carry out its functions. Appointments may be for up to four years and may be renewed.

Grievance officers, team leaders and legal counsel work directly with Board members to provide analyses and legal opinions on a wide range of issues. The responsibilities of the Board's internal services include administrative services, strategic planning, performance evaluation and reporting, human resources, finance, information management and information technology, and communications.

THE GRIEVANCE PROCESS

The CF grievance process consists of two levels and begins with the grievor's Commanding Officer (CO).

Level I: Review by the Initial Authority (IA)

- **Step 1**: The grievor submits a grievance in writing to his or her CO.
- **Step 2**: The CO acts as the IA if he or she can grant the redress sought. If not, the CO forwards the grievance to the senior officer responsible for dealing with the subject matter. Should the grievance relate to a personal action or decision of an officer who would otherwise be the IA, the grievance is forwarded directly to the next superior officer who is able to act as IA.
- **Step 3**: The IA renders a decision, and if the grievor is satisfied, the grievance process ends.

Level II: Review by the Final Authority (FA)

Grievors who are dissatisfied with the IA's decision are entitled to have their grievance reviewed by the FA, which is the CDS or his/her delegate.

- **Step 1**: The grievor submits his or her grievance to the CDS for FA level consideration and determination.
- **Step 2**: Depending on the subject matter of the grievance, the CDS may be obligated to, or may, in his or her discretion, refer it to the Board. If the grievance is referred for consideration, the Board conducts a review and provides its F&R to the CDS and the grievor. Ultimately, the FA makes the final decision on the grievance.

WHAT HAPPENS WHEN THE BOARD RECEIVES A GRIEVANCE FILE?

The Board's internal grievance review process consists of three steps: grievance reception, Board review, and the preparation and submission of findings and recommendations (F&R).

Grievance Reception: Upon receipt of a grievance, the Board sends a letter of acknowledgement to the grievor disclosing the information contained in the file and inviting the grievor to submit additional comments or other documents relevant to his/her case.

Board Review: An assigned Board member reviews the grievance and identifies the issues. If necessary, additional documentation is obtained and added to the file and subsequently disclosed to the grievor. The Board member is assisted by a team leader, a grievance officer and legal counsel.

Findings and Recommendations: The Board member issues the final F&R which are then sent simultaneously to both the Chief of the Defence Staff (CDS) and the grievor.

At this point, the Board no longer retains jurisdiction over the grievance, although the Board tracks its ultimate outcome. The grievor receives a decision directly from the Final Authority (FA) in the grievance process, the CDS or his/her delegate.

The FA is not bound by the Board's F&R. However, in cases where the FA disagrees, reasons must be provided in writing to both the Board and the grievor.

The Year in Review

As new challenges appeared on the horizon, the Canadian Forces Grievance Board remained focussed on its priorities and stayed the course towards achieving excellence, both in grievance review and in management.

While continuing to improve its operational efficiency and to refine its procedures, the Board engaged in establishing framework conditions to ensure the success of a new and promising phase in the military grievance process. Simultaneously, the Board re-examined its strategic approach and made some adjustments to ensure that the CFGB's mandate is clearly reflected in its activities; its role in the CF grievance process is well understood; and its contribution to a fair and transparent process is optimized.

COURSE ADJUSTMENT

A Strategic Review

In 2010, the Board conducted a strategic review of its plans and priorities, in consideration of the unique role it plays in the military grievance process and its expertise as an administrative tribunal. The exercise led to the adoption of a new CFGB Strategic Outcome which now reads: "*The Chief of the Defence Staff and members of the Canadian Forces have access to a fair, independent and timely review of military grievances.*"

The Board believes this revised Strategic Outcome more accurately reflects its mandate and mission and assists in better defining both operational and management priorities. It also represents a strategic adjustment in line with the Board's commitment to maximizing its contribution to the CF grievance process by extending the benefit of a "*fair, independent and timely review*" to all unresolved military grievances at the FA level. The CFGB's Logic Model, which establishes the links between the Board's activities and Strategic Outcome, is presented in Annex A.

Simultaneously, a program evaluation was conducted in accordance with the requirement for all government departments and agencies to assess their programs every five years. The results of the evaluation, which covered the period from January 2005 to December 2009, were overall very positive and validated the Board's strategic direction and priorities. The evaluation concluded that the grievance review program of the CFGB remains relevant, and that the need for an external review of military grievances by the Board continues to exist. The evaluation also concluded that the CFGB's objectives support government priorities and that its activities are consistent with federal roles and responsibilities.

The evaluation made recommendations in two specific areas: the alignment of the Board's communications activities with its mandate; and the allocation of resources between its internal services and its grievance review program. Acting on these recommendations, the Board adopted an action plan to evaluate strategic communications objectives and activities and adjusted the reporting of its financial resources.

Optimizing the Board's Contribution to Fairness and Transparency

As already mentioned, the Board is mandated to review grievances referred to it under the NDA and the QR&Os. The NDA places no restrictions on referrals to the Board. However, the implementing regulations limit the CFGB's review to only four types of grievances, which represent some 40% of the total number of grievances that reach the FA level. This means that a majority of CF members do not benefit from an independent and external review of their grievance by the Board before a final decision is rendered.

In October 2010, acting on the recommendation of a CF working group which included representation by the Board, the Armed Forces Council, the senior executive body of the CF, approved the introduction, on a trial basis, of a new approach for the referral of grievances. The pilot project had a start date of January 1, 2011 and is expected to last six months. Under this new "*principled approach,"* the CF refers to the Board unresolved grievances of all types that reach the FA level. The Board is committed to the success of this innovative model and has already taken the necessary steps to ensure it is fully prepared to respond to the anticipated workload increase associated with this pilot project.

"I believe that the 'principled approach' has significant potential to improve the transparency and accountability of the Canadian Forces administration and your continued engagement will help refine and validate it as we move forward."

The Vice Chief of the Defence Staff, Vice Admiral Bruce Donaldson, addressing the Board's Chairperson and members at the Canadian Forces Grievance Board's offices on December 15, 2010.

The Board strongly supports the "*principled approach*" as a way of extending the fairness and transparency of the grievance process; these were two concerns raised by the late Chief Justice Antonio Lamer in his 2003 report[1] in which he made a number of recommendations to improve the CF grievance process.

With respect to the Lamer Report, the CFGB continues to seek the implementation of three outstanding recommendations of particular interest to the Board. These three recommendations would allow members to complete their caseload after the expiration of their term; provide the Board with a subpoena power; and establish that the Board's annual report be based on the fiscal year rather than the calendar year. Implementing these recommendations would enhance the Board's efficiency. However, the Board noted they were not included in Bill C-41[2] which was tabled in 2010. The Board is hopeful the Bill will be amended during the legislative process to include these recommendations.

"The expertise acquired by the Board, its impartiality and its external position allows it to see what other parties, overly wrapped in the details of the individual cases, may not be able to see. The Board gets a clearer insight into the flaws in certain policies and into divisive issues that threaten to become conflicts. For this reason, the Board also plays an important role in diffusing conflicts and stabilizing the particularly difficult environment in which Canadian Forces members live and work."

Bruno Hamel, Chairperson, in a speech during the Board's tenth anniversary's ceremony on June 15, 2010.

1 *The First Independent Review by the Right Honourable Antonio Lamer of the provisions and operation of Bill C-25, an Act to amend the National Defence Act and to make consequential amendments to other Acts, as required under section 96 of Statutes of Canada 1998.*

2 Bill C-41 *Strengthening Military Justice in the Defence of Canada Act:* An Act to Amend the *National Defence Act* and to make consequential amendments to other Acts.

What's in a Name?

The Board has pursued a change of name over the last several years. These efforts culminated with the tabling of Bill C-41 which included a provision to change the Board's name to the *Military Grievances External Review Committee*. The proposed change is important for the Board, which has been aware for some time that the current name does not reflect its unique and external role. Over the last decade, the Board has dedicated substantial efforts to eliminate a common misconception that it is an organization internal to the Department of National Defence (DND) and the CF. The Board believes that the new name, when adopted, will lead to a better understanding of the specific role for which it was created.

Communications in Support of the Board's Mandate

In 2010, the Board responded to a recommendation from the five-year program evaluation and redefined its communications objectives to ensure closer alignment with its mandate and strategic direction. Three communications objectives were identified. First and foremost, the Board wanted to ensure that all parties involved in the military grievance process understand its role. Second, the Board recognized the importance of having all parties benefit from its unique perspective on matters raised in grievances. Third and finally, as a public organization, the Board reaffirmed its commitment to communicate the results of its work to the citizens of Canada, to whom it is ultimately responsible.

The Board engaged in a variety of activities to meet these communications objectives, including:

- Posting new case summaries and recommendations on issues of systemic nature on the CFGB's Web site. Summaries and recommendations provide the reader with a wealth of information on policies and regulations as well as on grievance issues;
- Publication of *Perspectives,* a newsletter primarily directed to senior officers at DND Headquarters. Through *Perspectives*, the Board shares with CF decision-makers valuable information about grievance trends and areas of dissatisfaction that come to its attention during the review of individual grievances;
- Publication of a quarterly electronic bulletin available through the Board's Web site. The *eBulletin* highlights current and interesting cases recently reviewed by the Board;
- A new statistics page on the Web site to provide a global overview, in graphics and numbers, of the Board's F&R for cases reviewed over the past five years, and of CDS decisions on these cases; and
- Visits to CF bases to maintain direct communication with members of the CF in their work environment.

At the same time, the Board developed a strategy for obtaining feedback from its various audiences, in order to ensure the effectiveness of its communications. A survey was developed for base personnel attending the Board's presentations during base visits and was administered for the first time at the CF Base Borden. Additional surveys are also being developed to secure feedback from readers of the Board's publications and Web site. This feedback will be used to ensure the Board's messaging remains relevant and is consistent with its communications objectives.

IMPROVED PROCESSES AND TOOLS

Increased Operational Efficiency

The Board has identified operational efficiency as one of its strategic priorities, in order to respond to its obligation to review grievances "expeditiously" and to contribute to a fair and transparent military grievance system.

In 2010, the Board succeeded, for the second year, in further reducing the average time required for the review of grievances. By December 31, 2010, the elapsed time required for the Board to review a grievance and to issue F&R had been reduced to an average of 3.2 months. This represents an improvement of 67 % compared to 2008 (9.6 months), and 46.8 % compared to 2009 (6.1 months).

The progress made by the Board in terms of efficiency validates measures introduced to streamline the internal review process. One key measure that resulted in significant savings in time is the involvement of Board members in the initial stages of the review process. A knowledgeable and stable workforce also contributes to this increased efficiency, while ensuring that the quality of the Board's work remains at a very high standard.

As a result of these improvements, as of October 2010, and for the first time in its history, the Board did not have in its inventory any active grievances referred to it before 2010.

These results, as well as others related to the Board's work, are described later in this report in the Operational Statistics section.

> *"The independent Canadian Forces Grievance Board is essential to the fair and unbiased processing of grievances. I was very impressed by the Board throughout. Thank you!"*
>
> A grievor whose case was reviewed by the Board.

Security Priorities

In 2010, the Board undertook a multi-pronged approach to improve all aspects of the organization's safety and security, including: personnel; physical and Information Technology (IT) infrastructure; knowledge; and assets.

In this regard, the Board worked toward developing a Departmental Security Plan. This included both updating its Business Continuity and Resumption Plan and developing a CFGB Threat and Risk Assessment. The implementation of the action plan arising from the recommendations of this assessment will be carried out in 2011.

The issue of security was also specifically addressed during the annual review of the Board's Risk Profile, and appropriate strategies were put in place to mitigate potential threats to the integrity of the organization's assets and institutional knowledge.

The Board is intent on maintaining the focus on security until security awareness becomes an integral part of organizational activities and culture.

Technology and Work Tools

To achieve its performance and quality objectives, the Board relies on a solid technology infrastructure and ensures its employees have access to the right tools. In 2010, the Board developed and implemented improved IT and IM (Information Management) strategies with the intent of upgrading computer workplace systems, rationalizing the Board's technology infrastructure and consolidating the Board's IT security procedures. Other initiatives which the Board implemented in 2010 include:

- **Digitalization of files:** The Board is now moving towards a paperless work environment by giving priority to electronic exchange and storing of files. This will increase efficiency and reduce the risk of loss of documents.
- **Video-conferencing capability:** An advanced video-conferencing system was implemented and successfully integrated to the Board's operations. The system reduces travel costs of Board members residing in different regions of the country and improves communications between them and the Board's staff in Ottawa. The system can also be used during hearings to receive testimonies from witnesses.

OPERATIONAL STATISTICS

Operational performance is a priority for the Board. It represents its ongoing contribution to the fairness and efficiency of the military grievance process and ensures the high quality and the timeliness of its F&R. The Board regularly assesses its internal review processes and closely monitors its production timelines, workload and planning assumptions to maintain optimum productivity and the quality of its services. This rigorous exercise allows the Board to remain agile and to quickly respond to changes in the environment.

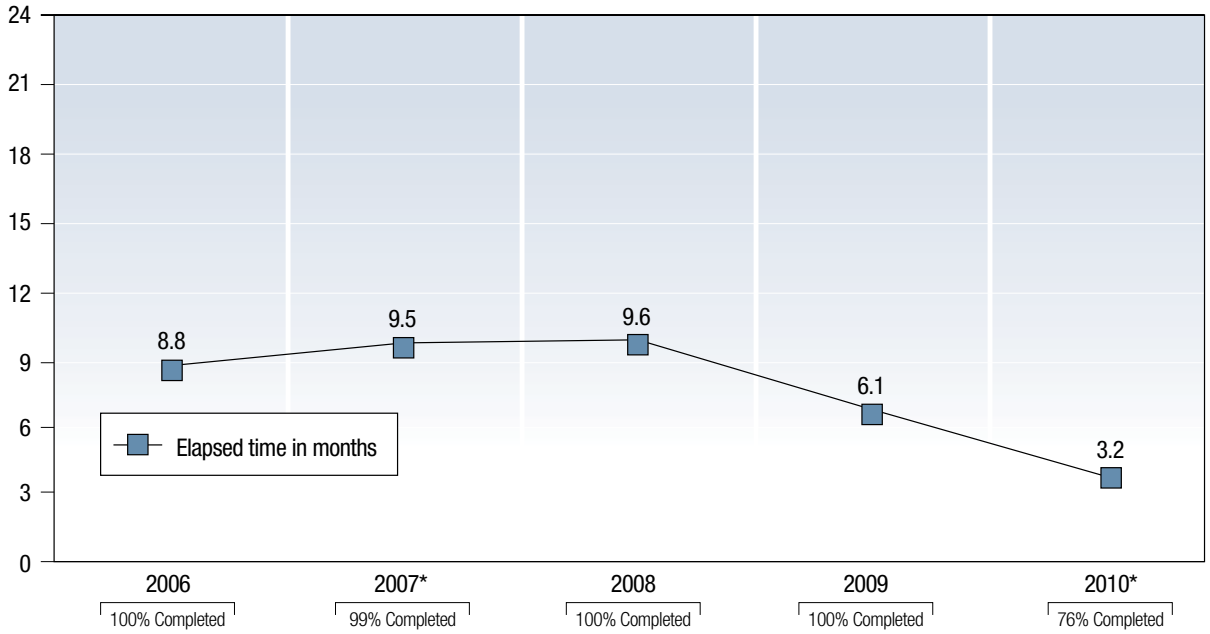
A Timely Review

The Board established a productivity standard of an average of six months to complete the review of a grievance. Refinements implemented in recent years have further streamlined processes and increased efficiency, bringing this average down to 3.2 months for cases received and completed in 2010. This represents a 67% improvement from the 2008 average of 9.6 months, and 46.8% from the 2009 average of 6.1 months.

Figure I shows the elapsed time taken on cases completed over the last five years.

Figure I

Data as of December 31, 2010



* Not all cases received in 2007 and 2010 have been completed to date. These statistics will be adjusted in future reports.

The Board officially marked its 10th anniversary on June 15, 2010 by hosting a ceremony in Ottawa. The ceremony was attended by the Minister of National Defence, the Honourable Peter MacKay, and many of the Board's partners within the military and government communities. In the name of all Canadians, the Minister thanked the Board for the excellent work it has accomplished over the past ten years and noted its important contribution to the military grievance process. The Minister wished the Board's staff and members "another ten years of success."

An Independent Review

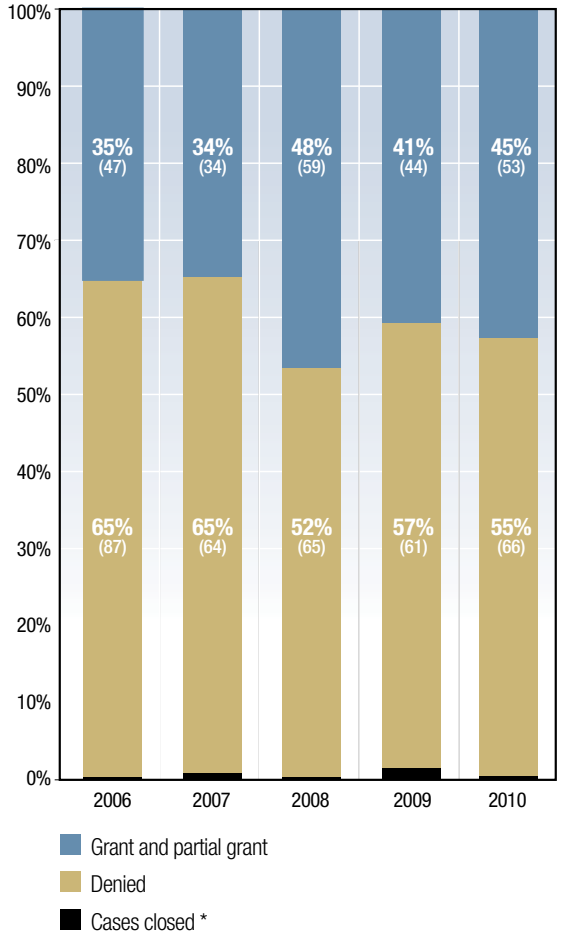
As an administrative tribunal, the Board has the obligation to review every case fairly and impartially. Each file is reviewed carefully and on its own merits while taking into consideration the issues raised by the complaint, the relevant evidence and the submissions of both the grievor and the CF authorities.

Between 2006 and 2010, the Board issued F&R on 583 grievances of which 40.7% (237 cases) had recommendations to grant or partially grant the grievance (i.e. supported the position of the grievor.) In the remaining 59.3% (346 cases), the Board recommended to deny the grievance.

Figure II sets out the distribution in percentage of the Board's recommendations by year.

Figure II

( ) Number of cases
Data as of December 31, 2010



* Cases for which the Board concluded that the matter was not grievable or the party had no right to grieve (e.g. a retired member of the CF).

"The review of my grievance was clear, well thought out and very well explained. I was pleasantly surprised."

A grievor whose case was reviewed by the Board.

Key Results

The Board's F&R provide both the grievor and the CF authorities with an analysis of the file, as well as a clear and complete explanation of the Board's assessment of the case.

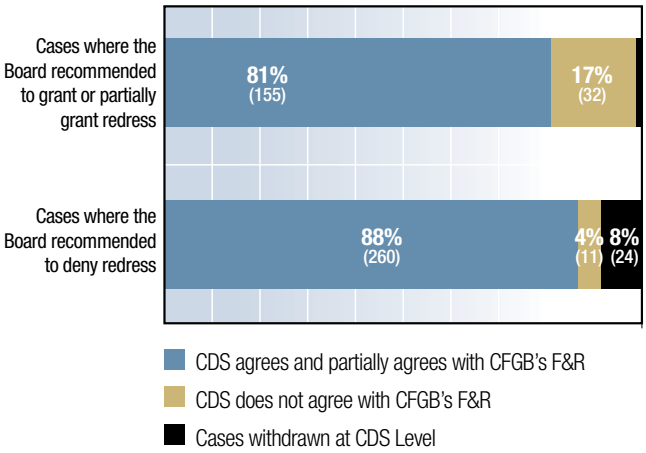
In the last five years, the CDS rendered decisions on 486 cases out of 583 reviewed by the Board. A total of 191 of these decisions addressed cases where the Board recommended that redress be granted or partially granted. The remaining 295 decisions addressed cases where the Board recommended that redress be denied.

In the 191* grievances where the Board recommended redress be granted or partially granted, the CDS agreed in 81% of the cases (155 files). For the remaining 295** grievances for which the Board recommended redress be denied, the CDS agreed in 88 % of the cases (260 files).

Figure III illustrates the distribution of the CDS decisions in each of these two categories.

Figure III

( ) Number of cases
Data as of December 31, 2010



* Four of these 191 cases were withdrawn after the Board issued its F&R.
** Twenty-four of these 295 cases were withdrawn after the Board issued its F&R.

2010 Workload

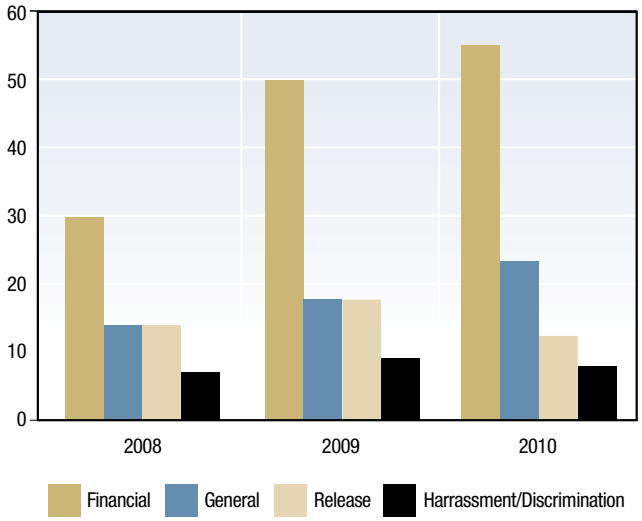
Completed Grievance Reviews

Table I outlines the distribution by recommended outcomes of the 119 cases completed by the Board in 2010.

Table I

Grievance Categories	Grant	Partially Grant	Deny	Total
Financial	18	11	34	63
General	7	8	12	27
Harassment/ Discrimination	1	4	6	11
Release	4	–	14	18
Total	30	23	66	119

Figure IV



Categories of Grievances Received

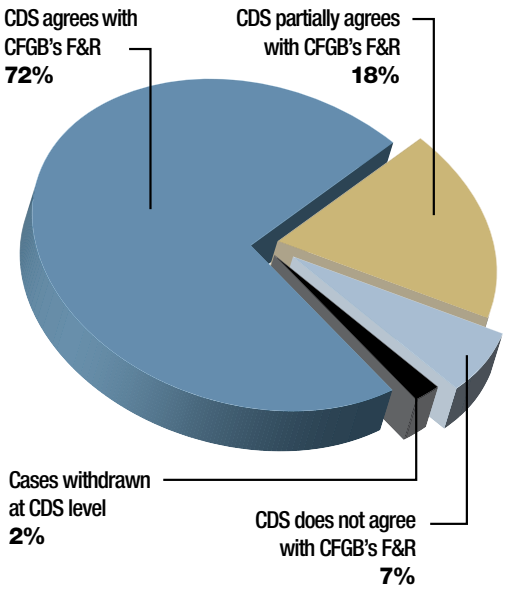
Figure IV shows the breakdown, by category, of the grievances received at the Board in the last three years (financial, general, harassment/discrimination and release). In 2010, grievances related to financial issues continued to be in the majority while their number significantly increased over the last three years.

CDS Decisions Received in 2010

The Board received CDS decisions in response to 134 grievances. As shown in Figure V, the CDS agreed and partially agreed with the Board's F&R in 90% of these cases and was in disagreement in 7% of these cases.

**Total may not add to 100% due to rounding*

Figure V



Grievance Highlights

Duty to be Fair in an Operational Theatre

Over the past year, the Board has reviewed a number of cases where CF members were repatriated early from an operational theatre for a variety of reasons related to performance or because their superior had lost confidence in them. In many of these cases, the affected members were simply advised that they were being repatriated and then scheduled on the next flight back to Canada. They were rarely given comprehensive reasons for their removal, nor were they given an opportunity to respond. The Board found, in these cases, a clear violation of the basic principles of procedural fairness and natural justice.

Although recognizing the constraints within an operational theatre, as well as the authority and responsibility of a Task Force Commander, the Board is of the view that, as a minimum, procedural fairness should always include:

- The member being informed of the intention to render a decision regarding their continuing employment in their position and of the reasons being considered by the decision-maker; and
- The member having an opportunity to make representations to the decision-maker prior to the final decision being made. The representations can be made orally or in writing, depending on the circumstances.

A particularly troubling aspect of members being repatriated without being afforded procedural fairness is that, even if the CDS later finds that the decision was unreasonable, there is little that can be offered in the way of remedy to a grievor. The member has already left the operation, possibly suffered humiliation and embarrassment, lost significant allowances, and cannot be compensated for time not served on an operation.

The Board is pleased to note that the CDS has supported its position and clarified that procedural fairness is an essential requirement, even in an operational theatre, when serious decisions are being made that affect a member's career or employment.

A Serious Breach in Procedural Fairness

In a number of files dealing with a serious breach of procedural fairness, particularly files relating to release decisions, the Board and the CDS had adopted the position that a breach could be cured by a subsequent review process, including the grievance process, if properly conducted. The reasoning was that, even if the decision-maker initially failed to provide procedural fairness, review authorities could remedy the breach by ensuring that all aspects of procedural fairness were met.

Accordingly, when the CDS had found that the grievance process had cured a breach of procedural fairness and concluded that, for example, a member's release was reasonable, the grievance would be denied and the original date of the release would stand. In cases where the release decision was found to be unreasonable, the grievor would only be offered re-enrolment on the basis that the CDS does not have the authority, under the *National Defence Act* (NDA), to reinstate members, nor does he have authority to provide financial compensation in these circumstances.

As a result, and having reviewed the recent Supreme Court decision in *Dunsmuir*[1], the Board now believes the practice described above is incorrect. In addressing the issue of procedural fairness in the public employment context in *Dunsmuir*, the Supreme Court of Canada explained:

> *The effect of a breach of procedural fairness is to render the dismissal decision void ab initio (Ridge v. Baldwin, at p. 81). Accordingly, the employment is deemed to have never ceased and the office holder is entitled to unpaid wages and benefits from the date of the dismissal to the date of judgment (see England, at para. 17.224). However, an employer is free to follow the correct procedure and dismiss the office holder again. A breach of the duty of fairness simply requires that the dismissal decision be retaken. It therefore is incorrect to equate it to reinstatement (see Malloch, at p. 1284).*
>
> *In addition, a public law remedy can lead to unfairness. The amount of unpaid wages and benefits an office holder is entitled to will be a function of the length of time the judicial process has taken to wend its way to a final resolution rather than criteria related to the employee's situation. Furthermore, in principle, there is no duty to mitigate since unpaid wages are not technically damages. As a result, an employee may recoup much more than he or she actually lost.*

In light of *Dunsmuir*, the Board believes that the CDS' position of "inability" under the NDA to re-instate members is therefore irrelevant. When a release decision has been invalidated as a result of procedural unfairness, then it is now clear that the release is void as a function of law, as outlined in *Dunsmuir*, and that the employment relationship between the CF and the member must be held to have legally and technically never ceased. In other words, legislative authority to reinstate a member in those cases is unnecessary, since the decision to release a member in breach of their right to procedural fairness renders the release decision void as if it never had occurred.

The Board has applied this reasoning in a number of grievances in 2010, but so far there has been no CDS decision on this particular issue.

1 Impact of the Supreme Court of Canada decision in *Dunsmuir*, [2008] 1 S.C.R. 190, 2008 SCC 9, on the CF grievance process.

Time Limit and Jurisdiction

Articles 7.02 and 7.10 of the *Queen's Regulations and Orders for the Canadian Forces* (QR&Os) set out specific time limits within which a grievance must be submitted at the Initial Authority (IA) and Final Authority (FA) levels; however both provisions allow an out-of-time grievance to be considered where it is determined to be in the interests of justice to do so. When a grievance submitted outside the prescribed time has been referred to the Board, our position has always been to provide a recommendation to the FA as to whether it is in the interests of justice to consider the merits of the grievance.

This year, the Board has been made aware that a number of out-of-time grievances, otherwise mandatorily referable to this Board in accordance with article 7.12 of the QR&O, may have not been forwarded to it because the Director General Canadian Forces Grievance Authority (DGCFGA) determined it was not in the interests of justice that they be considered. The *National Defence Act* provides that the CDS cannot delegate his powers as FA to DGCFGA in respect of files that must be referred to the Board. It would therefore appear that DGCFGA has rejected these grievances on the basis of time limit, as the administrator of the process and not as the CDS delegate.

In a number of decisions rendered in 2010, the CDS also adopted the view that the time limit issue is a preliminary matter that speaks to the basic validity of a grievance. Since the time limit issue is not a type of grievance that must be referred to the Board pursuant to QR&O 7.12, the CDS was of the opinion that the Board does not have the mandate to review such decisions. Once an out-of-time grievance has been referred, the Board should simply confine its review to the merits of the matter being grieved.

The Board respectfully disagrees with the CDS. In our view, the DGCFGA does not have the requisite authority to deny a grievance on the CDS' behalf when these are grievances that shall, as prescribed by regulations, be mandatorily referred to the Board for review. The Board is of the opinion that the question of timeliness and whether a grievance ought to be considered in the interests of justice is part and parcel of the Board's statutory function to review every mandatorily referred grievance in order to make findings and recommendations to the FA. A grievance at this level submitted outside of the time limit is still a valid grievance and the decision as to whether it is in the interests of justice to consider it must be taken by the FA.

Accordingly, the Board continues to provide its findings on this issue when out-of-time grievances are referred to it.

Selected Case Summaries

COSTS ASSOCIATED WITH AN INFERTILITY TREATMENT

The grievor and her service spouse had a history of infertility. It was determined by a fertility expert that the couple should undergo a treatment, which includes in vitro fertilization and requires the presence of both partners. The grievor and her husband followed that advice and were required to travel to undergo the treatment. The CF reimbursed the grievor's husband for his associated costs, including meals and incidentals.

However, the grievor's participation was not supported by the CF medical authorities and she was required to take annual leave for the duration of the treatment.

As a result, the grievor requested that her annual leave be changed to sick leave and that she be reimbursed the costs of her meals and incidentals, given that she was required to take part in the treatment.

The initial authority (IA) denied the grievance, stating that the grievor was not entitled to sick leave or expenses as they were not incurred as part of her direct entitlement under the Spectrum of Care (SoC).

Board Findings and Recommendations

The Board found that, under the policy guidelines in the CF SoC, the grievor was not entitled to IVF or related costs, and that the position taken by the IA was technically correct. However, the Board considered the fact that the treatment could not have proceeded without the presence of the grievor for the applicable period. Given that the grievor was a necessary participant in the treatment for obvious medical reasons, it was the Board's view that the grievor should not be considered exclusively as an individual CF member in this case, but rather should be seen as part of a CF service couple, both of whom are covered under the CF SoC. Based on her essential participation in the treatment, it was the Board's view that the CF health care system should support and compensate the grievor for the role she was required to play in the treatment process.

Chief of the Defense Staff Decision

Pending.

CHILDCARE EXPENSES

The grievor and her ex-spouse shared custody of their two children in accordance with a Quebec Court Order; the grievor was also required to pay child support. Prior to an international posting, the grievor negotiated an arrangement with her ex-spouse, under which he would take full-time care of the children in her absence, rather than the 50-50 sharing arrangement in effect while she was not away. Legal custody of the children would continue to be shared. They also agreed that the grievor would pay the husband a monthly amount over and above the child support payment she was already required to make. The ex-spouse submitted this agreement for the official approval of the Superior Court (Family Division) of Quebec, which he received. Consequently, for the period of her duty outside Canada, the grievor made the greater payments as agreed, and the ex-spouse took full-time care of the children. When she returned, the grievor requested reimbursement under the Family Care Assistance (FCA) benefit, in accordance with article 209.335 of *Compensation and Benefits Instructions* (CBI), the approved Treasury Board regulation. Her request was denied. She submitted a grievance requesting reimbursement in the amount of the total additional payments she made to her former husband while on deployment.

The initial authority (IA), the Acting Director General Compensation and Benefits, denied redress finding that there was a difference between child support as ordered in a Family Court order and childcare expenses as provided for in the CBI. He concluded that an amount paid in response to a Court Order for child support could not qualify as childcare expenses.

Board Findings and Recommendations

The Board disagreed with the proposition adopted by the IA that just because an amount is paid pursuant to a Court Order, it cannot be considered as childcare expenses under the CBI.

The Board was satisfied that during her deployment, the grievor needed to make childcare arrangements, and that those arrangements had to be paid for. The Board also acknowledged that, given the circumstances, it was reasonable for the grievor to approach her ex-spouse with whom she shared custody, to see whether he might take the children full-time in her absence. In consideration of his agreement to do so, she reasonably agreed to pay him a substantial extra amount each month. In the Board's opinion, on her evidence, and clearly on the face of the matter, the arrangement for the extra payment agreed to by both parties was exactly the purpose contemplated in the CBI and amounted to childcare expenses. This conclusion by the Board was further validated by the immediate reversion to a lower payment level once the grievor returned from overseas.

The Board found that the grievor's situation met the parameters of the CBI in all respects, and that she was entitled to the FCA as claimed.

The Board recommended that the CDS uphold the grievance.

Chief of the Defence Staff Decision

Pending.

PROCEDURAL FAIRNESS IN A CASE OF SEXUAL ASSAULT

The grievor was convicted of sexual assault and conduct to the prejudice of good order and discipline and was given a severe reprimand and a $2,000 fine. He was also the subject of an administrative review (AR) which resulted in him being placed on counselling and probation (C&P) for sexual misconduct. He successfully completed his period of probation and was removed from C&P but was advised that any further incidents of sexual misconduct would most likely result in a recommendation for release.

Four years later, following a domestic dispute, the grievor was charged with assault, sexual assault, unlawful confinement and uttering a threat. As a result of these charges, the Director Military Careers Administration (DMCA) conducted an AR which recommended the grievor be released from the CF. The grievor requested that the AR be delayed until the conclusion of his criminal proceedings as he was unable to make effective representations to the AR on the advice of his lawyer, who had told him that doing so might jeopardize his criminal case. The grievor's Commanding Officer, who had attended the preliminary hearings in the case, also strongly recommended that the AR be delayed until the criminal case could be heard.

The DMCA, relying primarily on the summary prepared by the military police (MP), which alleged that the grievor had made admissions, determined that he had enough evidence to conclude that the grievor had breached the CF policy on sexual misconduct, and therefore directed that the grievor be released.

Board Findings and Recommendations

In regard to procedural fairness, the Board examined in detail the jurisprudence and concluded that CF members are owed a high degree of procedural fairness, especially in administrative proceedings that could lead to their release.

The Board accepted that the grievor had been provided full disclosure of the information being considered by the DMCA, however, it was also clear that the grievor was unable to make representations, notwithstanding that he had been invited to do so, due to the pending criminal proceedings.

The Board noted that unlike other CF proceedings, such as a Board of Inquiry where protection against self-incrimination is afforded to CF members and they can be compelled to testify, the AR process offers no protection to members, who would be placed in the impossible situation of having to choose between potentially jeopardizing their defence in criminal proceedings or being released from the CF, without having an opportunity to respond to the allegations against them.

In these circumstances, the Board found that the grievor was not provided procedural fairness in the AR process which led to his release. The Board could find no compelling reason to expedite the grievor's release prior to the conclusion of the criminal proceedings and found that the DMCA decision to proceed with the AR and release was unreasonable in this case.

Relying on the Supreme Court of Canada decision in *Dunsmuir* (see page 13), the Board concluded that the grievor's release had to be invalidated because his right to procedural fairness had been clearly violated during the AR. Accordingly, the Board found that the grievor's release should be annuled and his military service deemed to have never ceased. The Board explained that this did not mean that the grievor could not be released again, provided that a subsequent decision to release is made in accordance with the rules of procedural fairness and the principles of natural justice. The Board added that, if such a decision is retaken, by the CDS or following a new AR, it will have to be effective the date the new decision is taken.

Finally, the Board found that even if the CDS were to disagree with its conclusions on the issue of procedural fairness, he would still have to be satisfied that the DMCA's decision to release the grievor was reasonable, based on the evidence on file. On this issue, the Board noted that MP reports are not evidence, in and of themselves, and cannot simply be taken at face value. The Board explained that this type of evidence, without being tested, further examined, or corroborated by any other direct evidence, should not be given any weight as it clearly constitutes "hearsay". The Board found that it was unreasonable to conclude that the grievor's statements were made entirely as purported in the unchallenged police report (which only summarized the statements), and that they constituted clear and convincing evidence of the alleged actions.

The Board recommended that the grievance be upheld.

The Board recommended that the grievor's release be considered void *ab initio* and that he be treated as if he had never been released.

Chief of the Defence Staff Decision

Pending.

REIMBURSEMENT OF REAL ESTATE COMMISSION UPON PURCHASE OF A HOUSE

The grievor purchased a house which was being privately sold with the help of a realtor. The grievor signed an agreement with the realtor that he would pay commission fees if the seller was not willing to do so. Therefore, the grievor was responsible for paying for the commission, which he did. However, the grievor submitted a grievance indicating that the commission should be paid by public funds, and the policy surrounding moves should be more specific with respect to this issue.

There was no initial authority decision on file as the time-extension request was denied by the grievor.

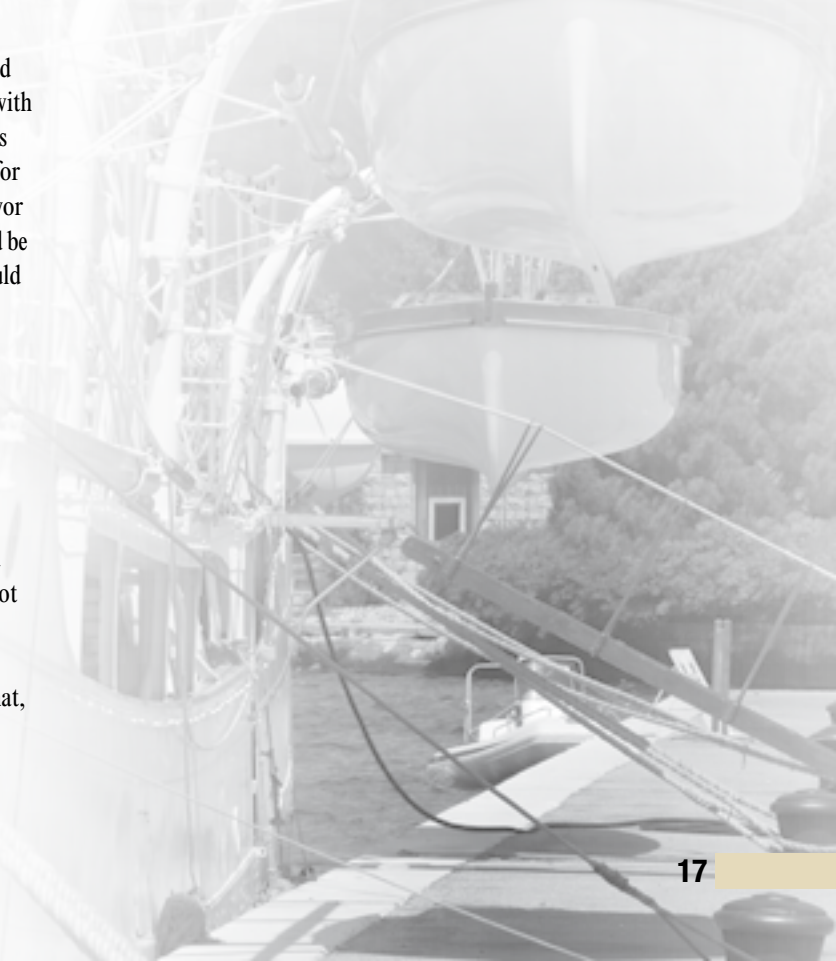
Board Findings and Recommendations

The Board reviewed the applicable policies and found that the grievor was not entitled to have the commission fees paid through public funds. The Board noted that the policy did not allow for the reimbursement of commission on the purchase of a residence, and there were no compelling reasons to use ministerial discretion to do so. However, the Board found that, although the policy previously included a Note of Caution that commission fees would not be paid on the purchase of a home, that Note has been removed from more current versions. Therefore, although the Board recommended that the CDS deny the grievance, it also recommended that the Note be re-inserted into the policy to provide clear direction.

Chief of the Defence Staff Decision

The CDS agreed with the Board's F&R to deny the grievance. Treasury Board authorizes the nature of the fees that can be reimbursed in the Canadian Forces Integrated Relocation Program (CFIRP) 2009 and the reimbursement of real estate commission (REC) upon purchase of a house is not included. Therefore, the CDS was satisfied that, based on the applicable policy, the grievor was not entitled to reimbursement of the REC he incurred as a buyer. The grievor made a personal choice in signing the Buyer Representation Agreement which is not binding on the CF. Finally, the grievor's situation did not meet the conditions stated in *Compensation and Benefits Instructions* (CBI) 209.013 nor was it sufficiently unique or compelling in nature to warrant ministerial discretion.

The CDS agreed with the Board's systemic recommendation that a note regarding non admissible expenses be reinserted into future CFIRP manuals and in the *It's Your Move* manual, as was done in the Active Posting Season (APS) 2006 and 2007 manuals.



ADMINISTRATIVE MEASURES CHALLENGED FOR INVASION OF PRIVACY

Due to complaints and rumours concerning the grievor's relationship with a subordinate, he was interviewed and cautioned by his supervisor. Six months later, as further information emerged and the grievor separated from his wife, an investigation into the relationship was conducted. The investigation concluded that there was no evidence of a personal relationship between the grievor and his subordinate, but that the grievor had displayed poor judgment on several occasions and should be counselled. The grievor received a verbal warning concerning superior-subordinate relationships and the matter was closed. The grievor and the subordinate were both deployed to separate units in Afghanistan.

Several months later, the grievor's estranged wife provided the grievor's former supervisor with notes she had taken from his diary indicating that there was indeed a personal relationship between the grievor and his subordinate. The supervisor re-opened the investigation and additional evidence of a relationship was discovered. The investigation concluded that there was a personal relationship between the grievor and his subordinate and that it was an adverse personal relationship which required reporting in accordance with the regulations. The grievor was repatriated from Afghanistan and his supervisor requested that the Director Military Careers Administration and Resource Management conduct an administrative review (AR) of the situation. The decision of the AR was that the grievor was to be placed on recorded warning (RW) for lying to his supervisor, counselling and probation (C&P) for failing to report an adverse personal relationship, his promotion was to be deferred, and his posting cancelled.

The grievor argued that he had been subject to an invasion of privacy since the diary notes, which the CF had used to re-open the investigation, were stolen from him by his estranged wife and the CF had no right to use them. He contended that his privacy was further breached by CF authorities providing his wife information about the investigation. He challenged the administrative measures taken against him as being too severe for what he was alleged to have done.

Board Findings and Recommendations

The Board determined that the grievor's rights were not infringed since neither the Charter of Rights, nor the relevant Privacy Acts, applied to the situation because his estranged wife was not acting on behalf of the State. The Board found no evidence that the CF provided information to the grievor's wife that would be considered a breach of privacy.

The Board found that an adverse personal relationship had existed between the grievor and his subordinate. The Board also concluded that the grievor had failed to report the relationship and that he had lied to his supervisor, and the investigating officer, on multiple occasions when questioned about it.

The Board found that the RW and C&P were reasonable and fully justified remedial measures and that the deferred promotion and cancelled posting were a normal consequence of being placed on C&P.

The Board recommended the grievance be denied.

Final Authority Decision

The Final Authority (FA) partially agreed with the Board's recommendation to deny the grievance. The FA was of the opinion that the C&P issued to the grievor for failing to report an adverse personal relationship was not justified, and directed that it be removed from the grievor's records and be disposed of in accordance with the *Library and Archives of Canada Act*. As a consequence of quashing the C&P, and in the absence of any disciplinary measures taken by the grievor's chain of command on any of the issues raised, the FA considered that the deferral of the grievor's promotion was not supported. The FA directed that the promotion be retroactively awarded to December 2007. As well, the FA viewed the decision to repatriate the grievor as the Commander's prerogative given that he had lost trust in the grievor.

Recommendations on Issues of Systemic Nature

Topic	**Compulsory Retirement Age - A Discriminatory Practice?**
Issue	The grievor requested an extension of service beyond his compulsory retirement age (CRA) which was denied. The grievor submitted a grievance claiming that denying his request amounted to discrimination based on age, contrary to the *Canadian Charter of Rights and Freedoms* (the Charter). In 1990, in the *McKinney* case, the Supreme Court of Canada held that mandatory retirement policies were fundamental, and they were not based on stereotypes, but they were the result of administrative, institutional, and socio-economic considerations. In a recent case called *Vilven*, the Federal Court of Canada (FCC) overturned a Canadian Human Rights Tribunal (CHRT) decision and found that section 15(1)(c) of the Canadian Human Rights Act (CHRA), with regard to mandatory age of retirement, constitutes discrimination as per section 15 of the Charter. Most importantly, the FCC sent the matter back to the CHRT to determine whether mandatory retirement age can be demonstrably justified as a reasonable limit in a free and democratic society by virtue of section 1 of the Charter. The CHRT released its decision on the matter in August 2009 and concluded that this was indeed the case. There are significant differences between the factual context in which the Supreme Court rendered its decision in 1990 and the context that prevails today. For example, people start careers at a later age and the CF is no exception. While the recruiting base of young Canadians is shrinking, there is a need to keep skilled and experienced members who are difficult to replace. People are capable of working longer, since the health care status of older people is improving. Furthermore, a system is already in place to monitor the performance and the medical status of CF members and to require release when members do not meet the universality of service principle. Although a judical review has been filed in the *Vilven* case, and despite the fact that the Supreme Court has not decided on this issue in light of the actual context, a series of lower court decisions and governmental positions reveal a trend that will surely affect provisions on CRA in all spheres of endeavour, including the CF.
Recommendation	*The Board recommended to the CDS that the CF reconsider the imposition of a CRA for its members in light of the recent jurisprudence.*

Topic	**The Administration and the Eligibility Criteria for the Land Duty Allowance (LDA)**
Issue	In this case, the grievor claims that his unit meets the definition of "field unit." It is his view, therefore, that his unit should be added to the list of units eligible for the Land Duty Allowance (LDA). As well, on a more general level, the grievor feels that the LDA eligibility criteria listed at article 205.33 of the Compensation and Benefits Instructions (CBI) are being wrongly interpreted by the CF. The grievor suggests that, given the nature of their roles, other units on the list of units eligible for the LDA are not exposed, as his unit is, to difficult working conditions and harsh environments in the field for long periods of time. The grievor also compared certain members of units eligible for the LDA to members of his own unit and alleged that the former were not exposed to difficult working conditions and harsh environments in the field, but were nonetheless receiving the LDA. In his view, this erroneous interpretation of the eligibility criteria is leading to an inequitable distribution of the allowance and affecting troop morale. Although the Board did conclude that the grievor's unit is not a field unit and is therefore not eligible for the LDA, it believes that the grievor's concerns respecting the management of the LDA within the CF were sufficiently important and serious to warrant a general review of the LDA eligibility criteria. The main concerns arising from this case are as follows: 1. CF members are eligible for the LDA based on the unit to which they are posted, whether or not they are actually exposed to harsh conditions in the field on a regular basis. On the other hand, for a position to be designated by the CDS, the position holder must be exposed to harsh conditions in the field for 90 days. This difference in treatment is perceived as unfair by CF members. Ultimately, the Board is asking whether a CF member who is not exposed to harsh conditions should receive the LDA. 2. Despite their intentions in this matter, the CF does not carry out systematic and regular reviews of the list of field units. Given the amounts of money at stake, the Board has expressed its concern with this lack of follow-up. 3. As explained above, it is not necessary for members of field units to be exposed to harsh conditions for 90 days per year in order to receive the LDA, yet this is the standard imposed on members holding designated positions. By the same token, there are no standards governing the number or percentage of positions required within a unit for it to be designated by the Minister or eligible for the LDA. 4. On first reading, it would appear that several of the units on the different eligibility lists issued since 2008 have never met the definition of "field unit." Yet, despite that, members of these units are collecting the LDA because they remain on the list of field units recognized by the CF. Further, as for the units removed from the list, in some cases this was done retroactively, in others not. This unexplained and unjustified difference in treatment means that some CF members have simply stopped receiving the LDA while others have been required to reimburse all the LDA they received in the past. This situation is of serious concern to the Board.
Recommendation	*The Board recommended that the CDS order an immediate review of the management and administration of the LDA within the CF in order to address the four concerns raised above.* *The Board recommended that the CDS order the establishment of standards or criteria to be used in identifying units that the Minister might designate for the purposes of the LDA, taking into account the purpose of this allowance, so as to ensure equitable treatment and administrative procedures for the positions and units eligible under the CBIs.* *The Board recommended that the CDS initiate an information campaign regarding this allowance aimed at giving CF members a better understanding of the purpose and eligibility criteria of the LDA.*

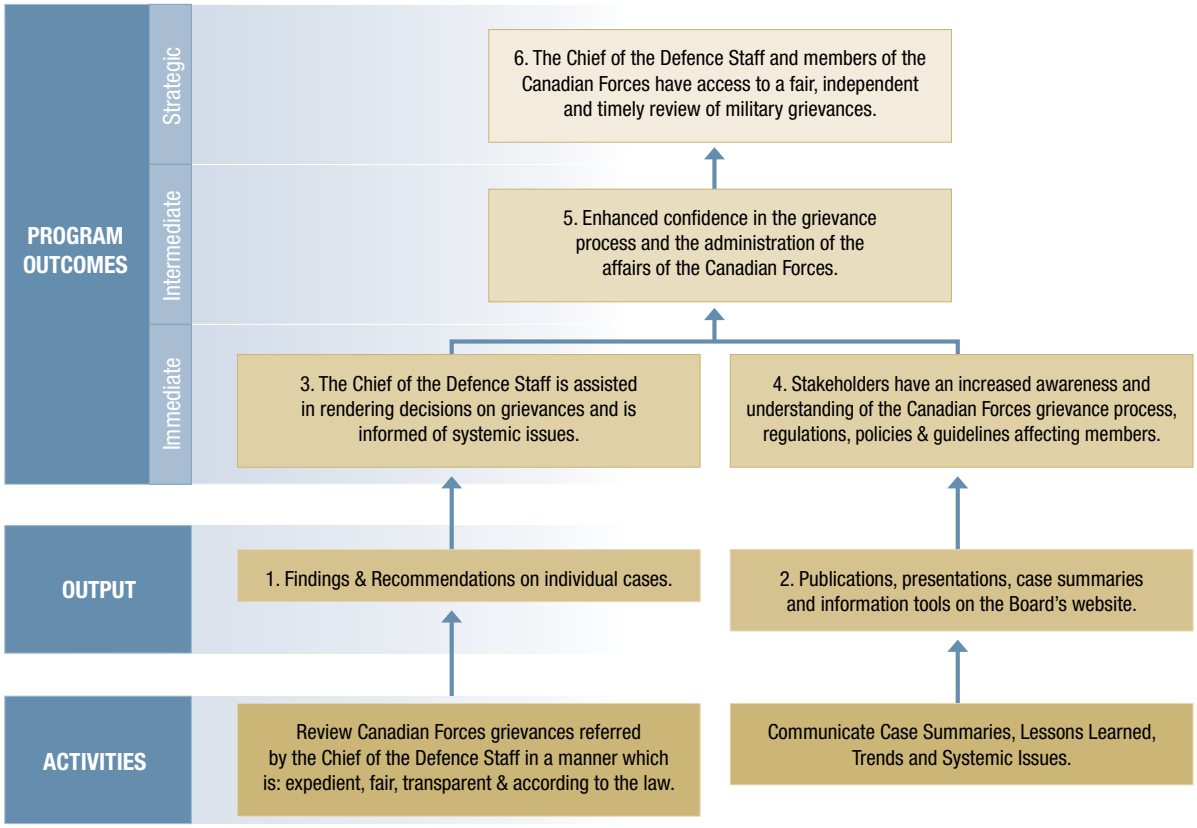
Topic	**Door-to-Door Move**
Issue	Although it has not undergone any major changes, the Canadian Forces Integrated Relocation Program (CFIRP) policy has been the object of numerous grievances since the interpretation of the provisions concerning door-to-door moves has been narrowed. At the heart of the problem is the reimbursement of expenses for meals, lodging, incidentals and storage during a move when the household goods and effects (HG&E) are ready to be delivered but the new residence is not yet available. In addition to the grievances that have been received, dissatisfaction in this aspect of the CFIRP has been abundantly expressed to the Board during its recent visits to CF bases. In the view of the Board this is probably the most controversial benefit at the present time. Despite the explanations provided through CANFORGEN (Canadian Forces General Order) 130/09, there remains a general lack of understanding of certain provisions of CFIRP, notably with regard to the more restrictive interpretation of the provisions concerning door-to-door moves. The Board also notes that the notions of "reasonable efforts", "could not/unable to" and "exceptional circumstances" are not defined in the CFIRP policy and believes that this lack of a clear definition has contributed to the lack of understanding and the high level of dissatisfaction among CF members.
Recommendation	*The Board therefore recommended that the CDS order a communication campaign to educate and inform members about these new provisions and their interpretation. At the very least, this campaign should seek to remind and explain:* • *the objective of the policy, its raison d'être and its three components;* • *that the CFIRP is a policy designed to minimize or eliminate as far as possible the disturbances associated with a transfer or a move and not to put money into the pockets of CF members;* • *the principle of the door-to-door move;* • *what constitutes a situation "beyond members' control";* • *what are considered "reasonable efforts" to organize a door-to-door move; and* • *what portion of the expenses for meals, lodging, incidentals and storage during a move is reimbursed from the core component.*

Topic	**Home Equity Assistance**
Issue	The Board examined the Home Equity Assistance (HEA) policy under section 8.2.13 of the Canadian Forces Integrated Relocation Program (CFIRP), which was applicable to members on posting who sold their homes at a loss in relation to the original purchase price. Section 8.2.13 contains a $15,000 maximum on compensation for losses on sale where the home is not located in a depressed market area. (Treasury Board Secretariat has defined a depressed market area as a community where the housing market has dropped more than 20%, and in such an area, section 8.2.13 authorizes compensation for 100% of the loss.) The Board found that, under modern market conditions, in light of the $15,000 maximum on compensation and 20% market drop required for a depressed market designation, it was likely that CF members in certain cases would continue to incur unreasonable losses on the sale of their homes on posting ($30,000 in this case). The Board found that permitting losses of this magnitude did not achieve the aim of relocating members with a minimum detrimental effect and was not in accordance with the purposes of the CFIRP policy.
Recommendation	*The Board recommended that the CDS direct that the HEA policy applicable to CF members selling their homes upon posting be re-examined with a view to reducing the impact of losses on sale to a reasonable and minimally detrimental level.*

Topic	**Delimitations of Post Living Differential Regions**
Issue	Geographical areas are used in applying the Post Living Differential (PLD) without taking account of the economic factors underpinning the concept of the post-living differential. The distinction between a geographical area and a Post Living Differential Area (PLDA) thus seems to be a major cause of confusion. While the geographical areas remain the same so long as the competent authority does not change the configuration, the PLDAs work differently and can be modified based on the cost of living. This confusion still persists and can lead to even greater frustration and unfair treatment in situations where a PLDA can consist of a single municipality. In this specific case, for example, communities or neighbouring towns in which CF members may have established their principal residence fall within the PLDA of Montreal South Shore, while the cost of living at these locations is not necessarily higher than that of St-Hyacinthe.
Recommendation	*Accordingly, the Board recommended that the PLDAs be delimited by boundaries, exactly the same as geographical boundaries, and not have recourse to municipalities, while taking into account the cost of living of these areas.*

ANNEXES

A LOGIC MODEL



B FINANCIAL TABLE

Planned Spending 2010-11 *(In dollars)*	
Salaries, wages and other personnel costs	3,245,488
Contribution to employee benefit plans	584,188
Subtotal	3,829,676
Other operating expenditures	1,674,004
Total planned expenditures	**5,503,680**

December 31, 2010. Actual expenditures will vary from the planned spending

Board Members and Staff

Chairperson

Bruno Hamel

Mr. Hamel was appointed Chairperson of the Board on March 2, 2009. A retired Canadian Forces officer, he has a lengthy and varied experience in military complaint resolution after many years spent as a senior grievance analyst and, later, as Director Special Grievances Enquiries & Investigations within the Director General Canadian Forces Grievance Authority. He has also served as Director General of Operations in the Office of the Ombudsman for the Department of National Defence and the Canadian Forces.

Full-time Vice-Chairperson

James Price

Mr. Price brings to his position extensive experience as a Canadian Forces officer in all areas of military law, including the military justice system, administrative law, international law and operational law. After serving as Assistant Judge Advocate General for Europe, he was appointed military judge, presiding over cases involving both service offences and offences under the *Criminal Code of Canada*.

Part-time Vice-Chairperson

Denis Brazeau

Mr. Brazeau retired from the Canadian Forces after 30 years of service, which included many deployments abroad and a position as Chief of Staff of the *Secteur du Québec de la Force terrestre*. He was appointed an Officer of the Order of Military Merit by the Governor General in 2004.

Part-time member

Carina Anne De Pellegrin

Ms. De Pellegrin is a legal professional, former Canadian Forces aeronautical engineering officer and a graduate of the Royal Military College. She has also advised on human rights complaints before the Canadian and Ontario Human Rights Commissions.

Part-time member

Michael Auger

A retired artillery officer, Mr. Auger headed the Military Occupation Structure Review and served as Executive Assistant to the Assistant Deputy Minister of Human Resources – Military. He currently mentors junior officers at the Canadian Forces Land Staff College.

Part-time member

Frederick Blair

A retired senior military lawyer, Mr. Blair was called to the Bar of Ontario in 1970. He later served in various positions within the office of the Judge Advocate General and deployed in Europe as Senior Legal Adviser.

With diverse backgrounds and a broad range of professional experience, the Board's employees work together to fulfill its mandate and achieve its vision.

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