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## Audit of the Conservation and Protection Program

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### List of Acronyms

**IAD** - Internal Audit Directorate

**ADM** - Assistant Deputy Minister

**C&A** - Central and Arctic

**C&P** - Conservation and Protection

**CFMP** - Canadian Forces Military Police

**CPIC** - Canadian Police Information System

**DVS** - Departmental Violation System

**FEATS** - Fisheries Enforcement and Tracking System

**FOCPP** - Fishery Officer Career Progression Program  
**IACP** - International Association of Chiefs of Police  
**RCMP** - Royal Canadian Mounted Police  
**MOU** - Memorandum/Memoranda of Understanding  
**NHCP** - National Habitat Compliance Protocol  
**NHQ** - National Headquarters  
**NL** - Newfoundland and Labrador  
**VMS** - Vessel Monitoring System

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## **1.0 Executive Summary**

### **1.1 Introduction**

The Conservation and Protection (C&P) program is the enforcement arm of the Department of Fisheries and Oceans (DFO) and seeks to facilitate public compliance with the *Fisheries Act* (the Act) and supporting regulations relating to the conservation and sustainable use of Canada's fisheries resources, the protection of species at risk, fish habitat and oceans. The Director General C&P, as the senior DFO enforcement officer, promulgates technical policies and procedures to facilitate the delivery of a quality professional departmental compliance and enforcement program. Program delivery is decentralized under the Regional Directors General and Area Directors, who are advised by C&P Regional Directors.

The program promotes compliance and deters non-compliance with legislation and departmental management measures related to: International Fisheries; Commercial Fisheries; Recreational Fisheries; Aboriginal Fisheries; Canadian Shellfish Sanitation Program; Habitat Management; Aquaculture Management; Oceans Management; Species at Risk; and Maritime security. C&P has several program clients but fisheries and habitat management tend to consume the majority of C&P effort and resources. The annual C&P budget for the NHQ and all Regions totals approximately \$120M; salaries represent about \$60M, O&M \$10M, air surveillance \$10-20M, and the remainder to purchase/maintain equipment and information systems. There are currently 632 fishery officer positions: Maritimes 140; Gulf 118; Quebec 46; Central and Arctic (C&A) 33; Pacific 176 and Newfoundland and Labrador (NL) 119.

### **1.2 Objectives and Scope**

The audit objectives were to: provide assurance that effective policies, procedures, management practices and controls are in place for the C&P program; provide assurance on the adequacy of processes to plan, manage and support law enforcement operations; and determine the adequacy of the professional practices and training employed to maintain proficiency and transparency of enforcement operations.

The audit maintained a national scope and included consultation with the National Headquarters (NHQ) and all Regions to examine the C&P effort as a Departmental program. The engagement included: examination of documents, observation of systems and methods, benchmarking with other law enforcement services and interviews. Auditors visited four Regions but consulted with all throughout the course of the audit. The engagement examined processes in place during fiscal year 2007/08.

### **1.3 Statement of Assurance**

In our judgement, sufficient and appropriate audit procedures have been applied and sufficient evidence has been gathered to support findings and conclusions contained in this report. The conclusions are based on a comparison of the situation against the audit criteria as they existed at the time of the audit.

### **1.4 Summary of Observations and Recommendations**

There are insufficient detailed policies and procedures in place, and inconsistencies in program delivery methods and procedures are evident. This reduces program effectiveness, increases risk, and may affect credibility with the general public, courts and other enforcement services.

**Agreements and Protocols** - There was some confusion within the program as to what agreements were in place because there is no central coordinator to manage and monitor memoranda of understanding/other agreements nor is there a review process to ensure agreements remain current and effective. The auditors did not examine all agreements but observed from a list provided by the program, that the majority of them have never been reviewed.

The National Habitat Compliance Protocol does not articulate the interrelationship between compliance and enforcement nor facilitate a cooperative partnership between Habitat and C&P for an effective departmental habitat compliance and enforcement program. C&P may not have fully embraced its mandate and Habitat's role extends into areas for which C&P is better suited; this unnecessarily increases the personal safety risk to Habitat employees in their duties.

**National Compliance and Enforcement Strategy** - The C&P program is delivered regionally but largely with an area level focus and exclusive of a national compliance and enforcement strategy. The result resembles six independent programs rather than a cohesive program with common objectives and priorities that can be linked from the strategic to tactical levels. Currently there is no overarching policy document available to facilitate the delivery of regional programs consistent with a broader departmental plan.

**Asset Management** - Program asset planning is supported by national and regional initiatives but there is no lifecycle management plan for unique program assets, nor are asset requirements clearly defined through standard equipment scales and specifications. Typically, requirements have been satisfied through B-base funding for specific purchases but this may be limited in future and it may be difficult to sustain the program within current allocations. Therefore, C&P may benefit from sound lifecycle management of critical assets based on standard minimum equipment scales and specifications.

**Management Information** - C&P has access to significant compliance, enforcement and statistical information through its operations and supporting activities but has no analytical capacity. Accordingly, the program cannot effectively monitor and plan compliance and enforcement activities or produce timely information products tailored to internal stakeholder needs.

**Designation Process** - There are weaknesses in processes to monitor persons who are designated as a Fishery Officer, Guardian or Fishery Inspector pursuant to sections 5 and/or 38 of the *Fisheries Act*. There is no single central DFO authority to monitor the suitability of all designated persons.

**Professional Development** - The Fishery Officer Career Progression Program (FOCPP) addresses development only up to the GT-04 level and does not identify knowledge, skill and experience requirements for development of specialist skills or subsequent supervisory/management levels.

**Functional Review** - The program does not have a professional standards audit program independent of line reporting channels that can enhance professionalism, public credibility/transparency, and facilitate improved standardization and compliance across the program which by nature is highly decentralized for delivery. As a result standards and methods are inconsistent, best practices may not be recognized or shared, and procedural or process errors may go undetected.

**Complaint Processes** - There is no public complaint process to resolve complaints about persons designated under Sections 5 and 38 of the Act, nor or a process to deal with complaints from these designated persons about DFO officials directly or indirectly interfering in the performance of the duties under the Act. These two distinct processes are important elements of a credible professional program and demonstrate public transparency to enhance public confidence.

## **Recommendations**

**Improve program controls and standardization by:** developing more comprehensive program policies and procedures which are centrally managed and kept current; establishing a process to ensure C&P program MOUs and major agreements remain relevant and effective; communicating an annual compliance and enforcement strategy outlining the departmental objectives, priorities and performance measures and allocating national controlled resources to support Regional planning; and publishing standard minimum enforcement equipment scales and specifications which are collaboratively managed between the National and Regional HQs.

**Improve the National Habitat Compliance Protocol by:** facilitating a common departmental collaborative approach across the compliance and enforcement spectrum to mitigate the personal safety risk to Habitat employees and more effectively and appropriately engage C&P to lead occurrence screening. C&P should provide the security and enforcement presence while Habitat should contribute expertise to assist C&P occurrence screening and any subsequent compliance or enforcement action, and pursue other compliance initiatives specified in the protocol.

**Improve operational planning and information management by:** establishing a national C&P intelligence program in partnership with other organizations as a means to more accurately analyse available information, monitor trends and provide needed information products to support compliance and enforcement planning at all levels, and to contribute to the information needs of other DFO sectors.

**Enhance professionalism and transparency by:** strengthening monitoring controls for Section 5 ad 38 Fisheries Act designations; expanding the Fishery Officers' career profile to include the supervisory levels; and introducing independent processes to audit professional standards and to resolve public and interference complaints.

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## 2.0 Introduction

### 2.1 Background

The Department of Fisheries and Oceans (DFO) Risk-Based Audit Plan included an audit of the Conservation and Protection (C&P) program to commence in fiscal year 2007/08, for the purpose of providing assurance on the core controls supporting the provision of the program components, taking into account the management model in place.

The C&P program is the enforcement arm of DFO and seeks to facilitate public compliance with the *Fisheries Act* (the Act) and supporting regulations relating to the conservation and sustainable use of Canada's fisheries resources, the protection of species at risk, fish habitat and oceans. The Director General C&P as the senior DFO Enforcement Officer promulgates technical policies and procedures to facilitate the delivery of a quality professional departmental compliance and enforcement program. Program delivery is decentralized and under the control of Regional Directors General and Area Directors who are advised by C&P managers at each level. In the Pacific Region, the Regional Director C&P has line authority over all Regional C&P resources. In other Regions, the Regional Directors perform primarily coordinating roles at the Regional level, to harmonize the effort of the Area Chiefs who have direct line authority over Area C&P resources and, consistent with the Area management model, report to an Area Director. In May 2008 DFO announced that line reporting up to the Regional Director C&P level will be introduced in the remaining four Regions on April 1, 2009.

The program promotes compliance and deters non-compliance with legislation and departmental management measures related to: International Fisheries; Commercial Fisheries; Recreational Fisheries; Aboriginal Fisheries; Canadian Shellfish Sanitation Program; Habitat Management; Aquaculture Management; Oceans Management; Species at Risk; and Maritime security. C&P has several program clients but fisheries and habitat management tend to consume the majority of C&P effort and resources.

The C&P effort is based on three mutually supporting activity pillars: (1) education and shared stewardship; (2) monitoring control and surveillance; (3) major case management and special investigations. To maximize resource potential and effectiveness, C&P also engages other DFO sectors, Federal/Provincial Government departments and agencies, and industry to help achieve departmental objectives. Generally, C&P seeks to deliver a balanced approach to regulatory compliance management by:

- promoting compliance through education and shared stewardship;
- sustaining compliance through Fishery Officers' presence and other monitoring, control and surveillance tools; and
- compelling compliance through major/special investigations to address complex compliance issues.

The annual C&P budget for the NHQ and all Regions totals approximately \$120M; salaries represent about

\$60M, O&M \$10M, air surveillance \$10-20M, and the remainder to purchase/maintain equipment and information systems. There are currently 632 fishery officer positions: Maritimes 140; Gulf 118; Quebec 46; C&A 33; Pacific 176 and NL 119.

## 2.2 Objectives and Scope

The objectives of the audit are to:

- provide assurance that effective policies, procedures, management practices and controls are in place for the C&P program;
- provide assurance on the adequacy of processes to plan, manage and support law enforcement operations; and
- determine the adequacy of professional practices and training employed to maintain proficiency and transparency of enforcement operations.

The audit maintained a national scope and included consultation with the National Headquarters (NHQ) and all Regions. The audit examined processes in place during fiscal year 2007/08.

## 2.3 Methodology

Initial planning for the audit commenced in July 2007 and included preliminary fieldwork in the Maritimes Region to better understand the program and identify the most appropriate areas for further work. This effort facilitated the identification and subsequent approval of the objectives, criteria and scope for the audit. The conduct phase of the audit commenced in February 2008 and included onsite audit fieldwork in the Gulf, Newfoundland and Labrador and Quebec Regions. The remaining three Regions not visited during the conduct phase were consulted to varying degrees on key issues relevant to their operations. NHQ staffs were consulted throughout the conduct phase for advice and clarification.

The audit work included the following: examination of documents, observation of systems and methods, comparison against other law enforcement services and interviews with Canadian Coast Guard (CCG) and DFO employees in NHQ and DFO Regions.

The auditors remained cognizant of the ongoing C&P management model review throughout the engagement; therefore, the findings and recommendations contained in this report are applicable to both the current concept and the new model with line reporting up to the Regional Directors C&P when implemented in 2009.

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## 3.0 Observations and Recommendations

To assist management in preparing their management action plan, the audit recommendations are annotated according to the following three categories based on their significance:

- High importance – major control weakness and/or an undesirably high level of risk;
- Medium importance – control weakness affecting operational effectiveness and/or credibility; and
- Low importance – control or process weakness contributing to inefficiency.

### 3.1 Objective 1 – Control Framework

*To provide assurance that effective policies, procedures, management practices and controls are in place for the C&P program.*

#### 3.1.1 Policies and Procedures

**Criterion:** *Adequate policies, procedures and guidelines are in place to deliver the program.*

C&P, as the enforcement arm of DFO, needs clear policies and procedures to deliver a cohesive departmental compliance and enforcement program that facilitates procedural consistency and effectiveness across regions. The Director General C&P is the senior technical authority for the DFO enforcement service and in this capacity currently maintains a suite of national policies for implementation by program staffs at all levels.

The NHQ has issued a number of relevant program policies and made them available to the C&P staffs and Fishery Officers through the Intranet. However, many documents are outdated, have not been reviewed for several years or do not provide sufficient clarity for consistent application across the program. A comparison with the key policy and procedure guidance commonly issued by other law enforcement services revealed a number of potential deficiencies in program documents. While there is some guidance set out in the C&P Compliance Framework, the Regional C&P organizations must rely on past training and experience or develop their own; this erodes program consistency, efficiency and effectiveness. A comparison of other enforcement services' key policy and procedure topics is included as **Appendix A**.

C&P participates in routine regional safety activities such as meetings and training required by the DFO Loss Control Manual. However, a detailed safety task hazard analysis has not been undertaken of the Fishery Officer and Fishery Inspector duties, nor has safety guidance been promulgated across the program. Nonetheless, the NHQ is sensitive to the risk faced by the Fishery Officers and issued a work alone policy. Managers may be liable for preventable accidents or injuries under occupational health and safety provisions of the Canada Labour Code for failing to exercise due diligence in safety risk mitigation.

As the department enforcement service, C&P should have clear, current and centrally managed policies and operating procedures issued by the senior technical authority to facilitate the delivery of the program in a consistent and professional manner. Program weaknesses in this area are evident through regional inconsistencies in the delivery of compliance and enforcement activities. This reduces program effectiveness, increases risk, and may affect credibility with the general public, courts and other enforcement services.

### **Recommendation**

**1. The Director General C&P should, in conjunction with Regions and with other Sectors as appropriate, update existing policies and further develop a comprehensive suite of program policies and procedures which are centrally managed to strengthen and standardize compliance and enforcement efforts as a cohesive Departmental Enforcement Service. (High importance)**

#### **3.1.2 Collaborative Efforts**

*Criterion: Major collaborative efforts with other sectors, federal/provincial government entities and industry have written agreements which are periodically reviewed.*

##### **3.1.2.1 External Agreements**

Long-term agreements with external parties are not centrally controlled or routinely monitored to ensure they are current, relevant and effective. There are numerous formal agreements in place to support program delivery; generally those with a broader scope are coordinated or managed by the NHQ while those which are specific to a Region's area of responsibility are managed by the concerned Region.

Administrative arrangements with provincial authorities for the enforcement of *Fisheries Act* provisions should be covered by a written agreement to ensure clarity of roles and expectations. This did not occur in the Province of Québec where it is the ongoing practice of provincial authorities to take the lead over habitat protection and enforcement responsibilities in fresh waters. The specifics of the working arrangement with the province do not appear to have been clearly communicated to all concerned and, thus, it is very difficult for DFO to determine if it fulfilled its legislative mandate in that province. The audit did not identify an official documented agreement stating roles, expectations and termination provisions; and because this remains uncertain, the fish habitat within the province is at greater risk while DFO and provincial authorities seek to resolve the matter.

There is no central authority or office, within the Department or the program, that is responsible to

manage and monitor memoranda of understanding or other formal agreements. It was difficult to obtain a consolidated list of all agreements in place within the program and there is some confusion about which were valid and afforded what benefit. There is no consistent process or central review authority/centre of excellence for major agreements affecting program delivery. With some difficulty and collaboration of the Regional C&P offices, the NHQ provided the audit team a list of what was thought to be a compilation of all current agreements. The auditors did not examine all the agreements but observed from a list provided by the program, that most had never been reviewed since coming into force. There is no review process in place or an established program policy or procedural guidance related to the development and management of agreements.

There is no review and accountability process in place to ensure memoranda of understanding and other agreements are current, relevant or measure results. Therefore, DFO cannot properly assess performance and ensure all legal responsibilities are fulfilled.

### **Recommendation**

**2. The Director General C&P should periodically, in conjunction with Regional authorities, review all compliance and enforcement memoranda of understanding and major formal agreements with other Sectors, departments, levels of Government and other enforcement services as a means to improve accountability and to ensure the agreements remain current, relevant and effective. (High importance)**

#### **3.1.2.2 National Habitat Compliance Protocol**

The National Habitat Compliance Protocol (NHCP) does not identify the interrelationship between compliance and enforcement or facilitate a cooperative partnership between Habitat and C&P for an effective departmental habitat compliance and enforcement program. While there is generally a good working rapport between the two sectors, C&P may not be allocating sufficient priority to the role and training of all Fishery Officers in habitat compliance and enforcement. Habitat's role may now extend into areas where C&P is better suited.

Generally, Pacific Region seems to have a balanced program while C&A, with a smaller fishery mandate, has a proportionally larger habitat program than others; conversely, Regions in Atlantic Canada focus primarily on the fisheries.

The NHCP defines an occurrence as "an observed or reported incident which is a potential violation of a statute or regulation" and goes on to define occurrence screening as "the initial gathering, risk assessment and filtering phase of occurrence management used to inform a response decision." The NHCP correctly gives Habitat the lead for determining the risk to fish and fish habitat, and gives C&P the lead for responding to reports of non-compliance with the habitat protection provisions of the Act. However, neither sector is specified as the overall lead for the occurrence screening, and both are authorized to conduct inspections or information gathering as "outlined in Regional Operational Protocols."

The audit observed greater safety risk in the C&A Regional Operational Protocol, which requires Habitat biologists and inspectors to adopt a quasi enforcement role by performing onsite occurrence response to determine if and/or when C&P should be engaged. This approach is unique to C&A and its adoption is reportedly attributed to past adverse public reaction to habitat enforcement by uniformed Fishery Officers in the prairies. Some managers felt the uniformed/armed officers looked too aggressive and as a result the Region used the latitude given under the NHCP to adjust their operating protocol and employees were instructed to make their new approach work.

The delineation of responsibilities such as that in C&A significantly increases the personal safety risk to Habitat employees performing onsite occurrence screening. Moreover, C&P cannot advise on risk or may not receive relevant information if not engaged in occurrence screening. Notwithstanding, C&P as an enforcement service is best trained and equipped to deal with onsite occurrence screening where it is necessary to confront a potential offender who may without notice or provocation become uncooperative or aggressive. However, it is appropriate to engage the technical expertise of the Habitat sector as specified in the NHCP during occurrence screening and as required, to assist in any subsequent C&P investigation that may result.

## **Recommendation**

**3. The Assistant Deputy Minister (ADM) Fisheries and Aquaculture Management and ADM Oceans and Habitat should revise the National Habitat Compliance Protocol to make a clear distinction between administrative and law enforcement functions, to facilitate a common collaborative approach across the Department and to mitigate the potential health and safety risk to habitat officials. (High importance)**

### **3.1.3 Business Planning Process**

**Criterion:** Risk based business plans include performance measures and links program and organizational priorities to resources.

Business planning appropriately conforms to organizational processes but no annual strategic program guidance is provided to Regional C&P managers to facilitate achievement of regional objectives within the context of a broader departmental compliance and enforcement plan. The NHQ and Regional C&P Managers collaboratively developed program and regional level risk assessments to support business and operational planning. Standard performance measurement criteria need to be further developed but program staff is aware of the deficiency and plan to address this through the C&P Compliance Review and Modernization Project which has been underway for several years.

An operational business planning and budgeting process introduced by the Maritimes Region to link resources to priorities has been well received by C&P managers in the Region. C&P managers in other Regions are familiar with the model and are now implementing or considering the benefits of this approach.

The C&P program is delivered regionally but largely with an area level focus and exclusive of a national compliance and enforcement strategy. Similarly, except for the Pacific Region and Central and Arctic Region which have line authority over subordinate C&P resources, the Directors of C&P have limited capacity to plan and manage operations at the regional level since the resources are controlled at the Area level. The result resembles six independent programs rather than a cohesive departmental program with common objectives and priorities that can be linked from the strategic to operational levels.

## **Recommendation**

**4. The Director General C&P should, in consultation with other Sectors and Regions, promulgate an annual DFO compliance and enforcement strategy that communicates strategic program objectives and priorities with performance measures and allocates the nationally controlled resources to guide Regional planning and maximize the effectiveness of the decentralized operations through a cohesive departmental plan. (Medium importance)**

### **3.1.4 Information for Decision Making**

**Criterion:** Managers receive appropriate operational and administrative information for decision making in a timely manner.

The C&P managers at all levels expressed satisfaction with the information available to them. From a program perspective, the managers rely mainly on the Fisheries Enforcement Activity Tracking System (FEATS), a statistics-based management support tool, and the Departmental Violation System (DVS) which is the main program information system for C&P compliance and enforcement activities. An examination of system controls revealed that neither system includes an approval step to ensure data quality before entry into the system, nor a process to purge the databases of irrelevant or other information that should not be retained. Therefore, the systems may not be fully compliant with requirements to purge databases of specific information such as removal of pardoned offences. The NHQ is aware of the issues and continues to examine the issue through the C&P Compliance System Refresh project.

Periodic meetings between NHQ and Regional C&P managers are instrumental in information sharing and harmonizing national and regional initiatives and objectives. Outside of these forums there are few opportunities or formal processes to share information across Regions; however, informal communication between counterparts does occur to collaborate on operational matters. Three Regions demonstrated

difficulties in lateral and vertical communications and cooperation within the C&P program while the Pacific Region, with a line reporting structure in place, shows particular strength in this area.

C&P at all levels is invited to, and participates in, collaborative meetings with stakeholders both internal and external to the Department, but gaps appear to exist in information sharing. These meetings are useful for information exchange and to harmonize cross-sector activities. Resource Management and Habitat officials suggest C&P may be too conservative about information sharing and at times may not share useful planning information in a timely manner, or at all. This can adversely impact the effective management of other sectors that rely on C&P for information and early notice of potential problem areas. Stakeholder communication gaps may be partially attributed to an operating culture typical of enforcement services that does not encourage open information disclosure; this is counterproductive to both C&P and its stakeholders.

### **3.1.5 Program Asset Management**

**Criterion:** *Plans for the short and long term management of program assets are developed and managed.*

Program asset planning is supported by national and regional initiatives but there is no lifecycle management plan for unique program assets. The NHQ has provided additional funding in recent years to replace aging equipment across the program. Typically, requirements have been satisfied by the NHQ obtaining B-base funding for specific purchases and Regions providing for special needs and some replacements. Senior managers at the NHQ expressed concern that such funding may be limited in the future and that it may be difficult to sustain the program within current A-base allocations. Therefore, the program would benefit from lifecycle management of critical assets to maintain operational effectiveness in times of fiscal constraint.

There is no standard equipment scale of issue for other than individual Fishery Officer clothing and protective equipment to establish common minimum capabilities. For example, there are no standards for program vehicles. As a result, vehicles are not equipped for transporting persons in custody, a potential safety hazard if the task must be performed. Also, the colour, marking and emergency equipment such as siren, lights or radio is not standard across the program. This will only be corrected through established minimum standards and specifications, with holdings appropriately adjusted for location. Standard minimum equipment scales would establish basic capability and resource levels based on the location and role of an organization that can be integrated into asset lifecycle plans. Standard equipment specifications would facilitate improved recognition of Fishery Officers by the public, enhanced officer safety and realizing efficiencies in training and equipment maintenance through the acquisition of specific brands.

The process employed by the NHQ to select new program assets does not always follow a clear and consistent procedure that includes field trials prior to acquisition but program staff does seek to acquire resources previously evaluated and proven effective by other organizations such as the RCMP. The work environment of Fishery Officers differs to that of other services and it may be prudent to collaborate with Regions to conduct field trials for new equipment items unique to the C&P program and for which sufficient data is unavailable from other enforcement services.

### **Recommendation**

**5. The Director General C&P should establish minimum national enforcement equipment scales and specifications for application in all Regions; and monitor future program requirements though lifecycle planning in cooperation with the Regional HQs. (Low importance)**

### **3.1.6 Sea and Air Lift Support**

**Criterion:** *Sea and air support plans are documented and implemented as planned.*

The program shows weakness in its processes to monitor fisheries in the in-shore patrol sectors that are beyond the transit range of integral program vessels. Air support is provided through a contract arrangement with links to a broader security mandate and is managed by the NHQ. The CCG provides sea support for fishery patrols extending beyond the approximate 20 mile range of the integral C&P program vessels. Funding for sea support is managed by the NHQ and available resources are apportioned to

Regions based on their operational needs. The CCG is supportive of C&P needs but also faces resource limitations and cannot provide replacements for a scheduled vessel that becomes unserviceable, and they have little capacity to respond outside of scheduled support tasks.

Managers are generally satisfied with the airlift support but the NHQ and two Regions expressed concern about the cost, type and quantity of vessels available to maintain a reasonable presence in the 20-150 mile zones. Program staff report being able to observe potential offenders from the air or by electronic monitoring but unless a fishery patrol vessel is in the area, they lack the capacity to confirm appropriateness of activities. There are, however, cases where it is not necessary to confirm or verify by the means of an on-site inspection. The provided CCG vessels are multi-task capable and do not always possess the necessary characteristics for C&P requirements. The NHQ is exploring alternatives.

While the reorganization of fleet resources and capacities do impact on the type and frequency of vessels available, other monitoring resources are available to C&P in reaching beyond the 20 mile limit. C&P employs periodic sea patrols, air surveillance, and other departmental data gathering programs such as the Vessel Monitoring System (VMS), the at-sea Observer Program and the Dockside Monitoring Program (DMP).

Improved intelligence capacities may allow better integration and analysis of related program information for better risk and target identification to support collaborative planning with other sectors and organizations. This may facilitate more efficient and effective use of the limited sea, land and air resources to compensate for gaps in sea support. Attempts were made to assess the impact of the reduced frequency of patrols in the 20-150 mile zones but the auditors were unable to obtain sufficient historical data to formulate an opinion.

### **3.2 Objective 2 – Planning and Operations**

*To provide assurance on the adequacy of processes to plan, manage and support law enforcement operations.*

#### **3.2.1 Information and Intelligence**

**Criterion:** *Enforcement operation planning is supported by sufficient program information and criminal intelligence.*

There is limited formal intelligence or information analysis process or capacity within the program to monitor and analyze information from the many available sources to support effective compliance and enforcement planning and operations, or the information needs of other sectors. As a result, the program is largely reactive to occurrences, and priorities tend to be established based primarily on the experience and understanding of those who are involved in planning. This process satisfies immediate needs but cannot correctly identify trends or risks and is ineffective for strategic and operational level compliance and enforcement planning.

The C&P program directly and indirectly has access to significant compliance, enforcement and statistical information obtained through its supporting programs that may be extremely beneficial to the efficient and effective management of other sectors and programs. There would be benefit to both the program and the department as a whole if C&P were to develop an intelligence program with the capacity to monitor compliance programs, support compliance and enforcement planning and operations, and to produce timely information products tailored to internal stakeholder needs.

#### **Recommendation**

**6. The Director General C&P should establish a national intelligence program in partnership with other organizations to more effectively manage the program by possessing the capacity to: advise other sectors of trends or threats adversely affecting fisheries resources and fish habitat; promulgating effective strategic guidance for Regional C&P activities; and supporting the regional efforts in all three pillars with useful intelligence products. (Medium importance)**

#### **3.2.2 Management of Major Cases**

**Criterion:** *There is a process to plan, resource and conduct major cases, including those crossing organizational and jurisdictional boundaries without compromising other operations.*

Major case capacities, activities, methods, levels of cooperation and understanding differ significantly across Regions and, as a result, this aspect of the program shows weaknesses and is not fully evolved.

There is no national investigative policy or procedural guidance to define a major case, how such activities should be handled and no new resources were provided to develop the new capacities. Regions do not possess a sufficiently developed capacity with clear operating mandates. However, managers do carefully select Fishery Officers for this sensitive work and improve their knowledge and skill levels by providing case management and specialist training.

Except in Pacific, enforcement operations are geared predominantly to Area level interests due largely to decentralized resource control. Regional C&P managers are cognizant of the benefits and efficiencies that may be achieved through Regional level major case work but in most cases they do not possess or control the needed resources. Those that are successful in conducting major cases generally draw upon Area resources to build the needed investigative capacity and over an extended period of time this can adversely affect Area compliance and enforcement programs.

Initiatives involving multiple areas within a Region are usually managed by regional C&P staff. The NHQ does not have an operational role and is not involved in initiatives involving multiple regions; this leaves coordination to participating Regional Directors of C&P.

Processes, accountabilities and expectations for major case activities are ill defined and C&P managers at all organizational levels do not currently share the same perspective. While there is interest in pursuing major cases to make a large impact on non-compliance, the capacities and a common focus do not yet exist. Accordingly, this important pillar of the program has not yet matured and its potential value has not been realized; this limits the program's strategic reach.

These issues should be addressed within the context of Recommendations no. 1 to 4.

### **3.2.3 Information Systems and Accessibility**

**Criterion:** *Fishery Officers have timely access to the information needed to perform their duties.*

The main information systems used by Fishery Officers in the performance of their duties are DVS, the Vessel Monitoring System (VMS), the Canadian Police Information System (CPIC), and to a lesser extent the FEATS which is primarily a management planning tool. Except for Pacific Region which operates a 24/7 operations centre, the Fishery Officer has limited or no access to information when away from the office. Most information is maintained in electronic form and accessible only through the DFO internal networks. Unless a colleague is readily available at the office to research and respond to telephone or radio queries, officers in the field must work from memory or whatever notes are available. This limits Fishery Officers' effectiveness when timely information support is unavailable. For example, Officers cannot readily access previous occurrence information prior to approaching potential offenders or view newly released variation orders which are published on internet/intranet to communicate changes to the operation (i.e. opening or closure) of a fishery. Therefore, Fishery Officers are disadvantaged by their inability to view and research information while away from the office.

The Pacific Region engaged in a mobile office project based on a notebook computer that was able to communicate with the DFO server while in the field but the system has not been rolled out for general use. Most law enforcement services provide their officers a similar mobile platform for timely access to information. A mobile office system would be very beneficial to the program and could provide Fishery Officers with required timely access to investigative support information, regulations and variation orders. Better information accessibility through a mobile office would give Fishery Officers the needed tools to be more efficient in their enforcement duties and spend more time interacting with the public to enhance awareness and facilitate their voluntary compliance.

There may be useful information contained in other DFO information systems but in most cases C&P does not have the access or capacity to perform cross system search queries even where others are willing to

share information. The NHQ recognizes the value of a system able to access multiple databases both within and external to DFO, and aspires to introduce such a system over the long term but legislative requirements such as the *Privacy Act* and other potential obstacles to effective information sharing must be overcome to maximize the potential.

DVS is the primary system used to monitor violations, response, investigative work and court action. The C&P program has been afforded category II CPIC (read only) access but terminals are not currently available at the detachment level; and as a result Fishery Officers may not use this important information tool to its full capacity. There is no program policy detailing use of the CPIC system or requiring program staff to enter *Fisheries Act* and related criminal convictions into the system; a responsibility of the investigating/charging agency. Therefore, it appears the DVS is used as an internal substitute for CPIC and that convictions and relevant threat/investigative information is not made available to police or other enforcement services as it ought to be. Maximizing the use of DVS is appropriate but not including convictions and offender risk information in the system disadvantages other enforcement services, including external partners who also enforce the Act but do not have DVS access.

The VMS is employed differently in each Region but does show potential to support information gathering and analysis for compliance and enforcement operations, and to benefit other sectors or branches such as Science and Resource Management. For example, the Gulf Region has been able to compare the reported catch data against the VMS data to more accurately monitor fishing fleet movement and activity. VMS is not mandatory for all vessels or fisheries but it does demonstrate good potential and value where used; however, limited monitoring and analytical capacity within the program precludes fully exploiting the systems capabilities. VMS is not used extensively by front line officers because the data must be analyzed in order to be useful for investigative purposes.

Information processes should be considered within Recommendations no. 1 and 3.

### **3.2.4 Guidance and Assistance for Fishery Officers**

**Criterion:** *Fishery Officers have timely access to guidance and assistance when needed.*

C&P Pacific Region has a 24/7 operations centre that Fishery Officers can call for information and to obtain assistance during silent hours or when away from the office. Atlantic Canada has in past years been supported by the CCG Regional Operations Centre. At the time of the audit, an alternate provider was being considered as the level of CCG support will be reduced in the future as services are realigned. C&P in the C&A Region has no capacity for 24/7 services and informally borrows radios from and uses the operations centre of their provincial counterparts for emergency assistance. None of the mentioned capacities provide an on-duty C&P supervisor to guide and assist officers in the field.

Guidance from superiors during office hours is generally not a problem and during silent hours, Fishery Officers will telephone their supervisor for guidance as needed. This is less reliable than a duty officer system but no particular problems were reported. There is significant potential risk to the personal safety of officers performing law enforcement duties and critical guidance must be readily available in a timely fashion. Although National and/or Regional operations centres would be an ideal solution, this would be the most costly solution. Current methods will not always satisfy emergency back-up and accident response requirements; therefore, it would be appropriate to mitigate the risk to employees by establishing and testing clear procedures and agreements with other enforcement agencies to provide required communications and response assistance.

Guidance and assistance protocols should be addressed through Recommendation no. 1.

### **3.2.5 Physical and Information Security**

**Criterion:** *Law enforcement assets and information are safeguarded in accordance with TBS/departmental policies and third party agreements.*

While the *Treasury Board Secretariat* has not specified security standards for firearms and ammunition, the lead agency for physical security offers only limited information such as types of security containers that may be used. While there are firearms in more than one DFO sector, the Department has not promulgated

the necessary guidance to ensure the safe storage and proper accountability for firearms and ammunition. This lack of guidance leaves much latitude for interpretation.

Amongst DFO sectors, the C&P program possesses the largest number of firearms. The Director General C&P promulgated a C&P firearms policy for application in all Regions to provide guidance on the security of firearms and ammunition. The NHQ program staffs periodically review and update their existing policy but, without the benefit of supporting corporate security standards, implementation of physical safeguards differs across regions. Essentially, the C&P staffs at Regional, Area and Detachment levels make their own interpretations based largely on the C&P firearms policy, the limited corporate guidance available and the assistance of Regional security staff.

Program personnel respect the sensitivity of the law enforcement and informant information they possess and aspire to properly apply safeguards; however, documents often do not display proper security markings, and supporting computer systems may not be accredited to the sensitivity level of the information processed. There is also room for improvement with respect to the use of proper security classification of documents and relevant handling implications.

Some of the equipment and information held by C&P is very sensitive, and traditional office security practices are inadequate. Departmental level policy would not provide the needed direction for C&P managers at all levels; therefore it would be prudent for national C&P policies and procedures to complement Departmental policy by specifying physical and information security standards.

Security improvements should be addressed within the context of Recommendations no. 1 and 9.

### **3.2.6 Evidence Management and Court Processes**

**Criterion:** *Evidence handling, security and disposal protocols are appropriate and court cases are properly prepared and managed.*

Evidence handling, disposal and security measures are ill defined and inconsistent. There is no national procedural guidance and, as a result, Fishery Officers are expected to rely on the generic knowledge acquired during their basic training or, where available, locally developed protocols. Proper evidence handling and disposal is critical to successful enforcement, prosecution and the effective and efficient operation of a law enforcement service. Improper evidence disposal may have legal repercussions and can impair public support.

Evidence seized in support of charges under the Act is retained by the C&P Detachment and held in compounds/containers, including freezers which may not be adequately secured for their purposes. In most instances the actual seized carcass/fish/lobster is brought to court.

There were no reported problems with court disclosure or the administration of court processes. Both federal and provincial counsel spoke favourably of the work performed by Fishery Officers. However, it was observed that there can be significant differences in how case files, documents and evidence are presented across Detachments and Areas. This is a procedural issue rather than the result of differing court jurisdictions or preferences. Greater standardization is thus possible and may further enhance the quality of court submissions and the program's professional image. This issue should be addressed through Recommendation no. 1.

### **3.3 Objective 3 – Professional Practices**

*To determine the adequacy of professional practices and training employed to maintain proficiency and transparency of enforcement operations.*

#### **3.3.1 Authorizing and Monitoring Fisheries Act Designations**

**Criterion:** *Fisheries Act Designations are made for only as long as necessary and suitability for retention is monitored.*

There are weaknesses in current processes to monitor persons who are designated as a Fishery Officer, Fishery Guardian or Fishery Inspector pursuant to sections 5 and/or 38 of the *Fisheries Act*. There is no single central authority within DFO to monitor continued suitability and need for all designated persons thereby potentially giving powers to some persons who are not monitored for their continued suitability.

Fishery Officer and Fishery Inspector appointments are authorized by the Director General C&P while Fishery Guardians are appointed by Regional Directors General, and monitored to varying degrees by the Regions. The Inspectors are designated by the Director General C&P but there are no clear eligibility criteria or monitoring process to confirm their continued suitability and need. Regional staff monitors the continued suitability and eligibility of their Fishery Officers and will inform the NHQ of problems.

Fishery (Habitat) Inspectors are afforded quasi enforcement powers under the Act but, unlike Fishery Officers, they are not subject to a code of conduct or public complaint process as a condition of their appointment. The Fishery Officer code of conduct applies only to DFO employees who are designated Fishery Officers up to Area Chief, Fishery Guardians and designated ships' Officers and Ships' Crews. Fishery Officers, regardless of their level or job assignment, are not all accountable under the code. Those who belong to other federal/provincial enforcement services are answerable to their own comparable professional code of conduct.

The designation of Fishery Officers with provincial status and vice versa did not reveal any adverse issues. However, it may be prudent to document expectations, and financial and reporting obligations, related to the enforcement of provincial offences by Fishery Officers, and reciprocal action by provincial officers.

### **Recommendation**

**7. The ADM Fisheries and Aquaculture Management should strengthen controls for fishery officer, guardian and inspector designations pursuant to Sections 5 and 38 of the Fisheries Act by: centralizing the designation and monitoring authority under the Director General C&P; and making compliance with the Code of Conduct for Fishery Officers, or for other enforcement services, their own professional enforcement code of conduct or equivalent measures agreeable to the Director General C&P, a condition of designation under the Act. (Medium importance)**

### **3.3.2 Fishery Officer Training**

**Criterion:** Professional development and unique training needs are adequately addressed to maintain competence.

The Fishery Officer Career Progression Program (FOCPP) addresses development from initial recruit training until completion of an on-the-job training package and appointment to the GT-04 level. C&P managers are satisfied with the recent renewal of Fishery Officer recruiting and with the quality of training provided through the FOCPP. The courses are collaboratively coordinated, planned and conducted between the NHQ and the Regions, and the recruit intake in recent years meets requirements. However, C&P needs to focus more on identifying knowledge, skill and experience requirements for special assignments/roles or to support human resource development and planning beyond the initial FOCPP.

Regional C&P managers have attempted to identify progressive knowledge and training needs for supervisory and unique assignments but there are no national standards. Succession planning and learning plans are therefore ad-hoc and employees are not always appropriately developed for more senior or specialized duties prior to assignment. Managers cannot effectively develop subordinates to common standards thereby further complicating the staffing of substantive positions. Without clear training standards and objectives, management may unintentionally commit training funds to build unnecessary or surplus skill capacities.

### **Recommendation**

**8. The Director General C&P should develop competency profiles stating knowledge, skill and experience standards and expand the FOCPP beyond GT-04 through the management levels to support human resource development and succession planning. (Low importance)**

### 3.3.3 Professional Standards Monitoring

**Criterion.** *A functional audit program provides assurance on operational effectiveness; regulatory, policy and procedural compliance; and identifies best practices to share across organizational units.*

The program operates in a decentralized manner and does not have an effective inspection and assessment process to assess organizational professional competency and effectiveness, to facilitate standardization where appropriate, and to share best practices. As a result, there is no viable means to measure program effectiveness and efficiency at the Region, Area and Detachment level; standards and methods are inconsistent; best practices may not be recognized nor shared; and procedural or process errors sometimes go undetected.

Regional C&P staff monitor essential qualification and certification requirements such as medical and firearms training for Fishery Officers but there is no formal process to share best practices within or across Regions. The Newfoundland and Labrador Region is attempting to introduce a program to examine some aspects of professional standards and operations. Although the effort is in its infancy, the Regional C&P staff speak favourably of the potential benefits.

A C&P professional standards audit program that is independent of line reporting channels can enhance professional competencies, public transparency and facilitate improved standardization and compliance across the C&P program which by nature is highly decentralized for delivery.

#### **Recommendation**

**9. The Director General C&P should introduce a professional standards audit program independent of line reporting relationships to maintain professional competencies at all levels.**  
*(Low importance)*

### 3.3.4 Public and Interference Complaint Process

**Criterion.** *There is a fair and transparent process to resolve conduct complaints from the public concerning persons performing compliance and enforcement duties under the Fisheries Act.*

Unlike most federal, provincial and municipal enforcement services, C&P does not have a formal public complaints process to receive, investigate and resolve complaints from the public concerning employees who are performing duties for which they are designated special powers under the Act. The DFO Centre for Values, Integrity and Conflict Resolution provides various conflict resolution processes but these are not intended for, or suited to the oversight of enforcement activities.

Departmental policy does not make a clear distinction between handling general complaints from the public about an employee's conduct and those that relate to duties for which an employee has special designation and authority under the Act. Notwithstanding, C&P recognized the need and promulgated a professional code of conduct for Fishery Officers/Guardians and investigative processes, but there remains some confusion between the identification of professional conduct issues and those that should be addressed by management or employee relations. The code of conduct and investigative guidelines are important elements of a formal complaint mechanism but current processes are neither advertised to the public nor subject to sufficient controls, independence and monitoring to encourage public confidence.

**Criterion.** *There is a fair and transparent process to resolve interference complaints from persons performing their duties under the Fisheries Act.*

There is no process to receive, investigate and resolve complaints from Fishery Officers or DFO officials directly or indirectly interfering in the performance of duties under Sections 5 and 38 of the Act.

There is no indication of the level of interference is common within DFO since there is no formal reporting process in place. However, anecdotal evidence in one Region demonstrated the ability of persons outside of the enforcement process to interfere with a lawful investigation. Interviews with DFO managers from outside of the program indicated respect for an arms length independent relationship with C&P for enforcement matters.

There are differing views within the C&P program as to the need for an interference complaint process; however, typically those at the more senior levels tend to perceive a lesser need than others. Nonetheless, the existence of an independent complaint process without retribution against complainants should enhance program credibility and transparency, and can have a positive impact on the morale and effectiveness of Fishery Officers.

### **Recommendation**

**10. The Director General C&P should introduce a formal public complaint process and an interference complaint process independent of line reporting as a means to enhance professional competence, accountability and transparency for those who perform fisheries and habitat compliance, inspection and enforcement functions pursuant to Sections 5 and 38 of the Fisheries Act. (Medium importance)**

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## **4.0 Management Response and Action Plan**

### **Context (Management Response)**

In reviewing the audit report and the Management Action Plan (MAP), it is important to keep in mind the overall structure of the Conservation and Protection (C&P) program, the context within which it functions and recent initiatives that have been undertaken to enhance its effectiveness.

The program is highly decentralized, with the priority clearly placed on providing a good level of service at the local, field level. There are high expectations on the part of the public and the department's clients that the current level of fishery officer presence in the field will be maintained. Very limited resources are allocated to staff positions at Regional Headquarters and National Headquarters. It is important to recognize, however, that dedicated resources would be required in order to make meaningful progress in addressing many of the recommendations from the audit report. This is particularly true in considering the cumulative impacts of the 10 recommendations if they were all to be acted upon within the same timeframe. This could only be accomplished through either the addition of significant new resources for the C&P program or the re-deployment of existing FTEs from field positions to RHQ and NHQ. Any major reallocation of resources within the C&P program would have serious impacts on operational (field) activities.

The C&P program has been the subject of considerable attention and scrutiny in recent years. In 2004, the Departmental Management Committee (DMC) directed that a review be conducted to re-define and modernize the departmental compliance program. This review, titled the Compliance Review and Modernization (CRM), has been the focus of considerable effort on the part of C&P managers over the past 3-4 years. Some of the work included:

- Documentation of the "C&P Squeeze" which describes the current and expanding operational gap that exists between the service demands and the service delivery capacity;
- development of a regulatory profile and environmental scan;
- a review of compliance tools and strategies used by other similar agencies in Canada and internationally;
- public opinion surveys on fisheries compliance issues;
- development of a logic model and performance framework for the C&P program;
- adoption of a National Compliance Framework, i.e. a "3 pillar" approach to achieving compliance.

The National Compliance Framework contains three main elements that help set the future program direction. The three pillar model is the main element that describes a balanced and integrated approach for delivering our program to achieve and maintain compliance. The first pillar consists of the suite of essential activities for promoting compliance - through strategies such as education, promotional campaigns, and engagement of stakeholders. The second pillar includes the more traditional monitoring, control and surveillance activities that requires further advances in integrating new technologies and strategies. The third pillar focuses on the need for increased capacity related to intelligence gathering/analysis and Major Case Management to help focus attention on high-risk illegal activities that

pose significant threat to the achievement of our conservation objectives, and which usually cannot be addressed through education or routine monitoring. Much of the current modernization effort within the C&P program is focused on improving and more effectively using our capacity in all three pillars to achieve our mandate.

The completion of the CRM initiative has led to a number of other key initiatives that have been identified as priorities for moving forward with enhancement to the C&P program. These include:

- developing a more structured, coherent and integrated risk assessment process;
- improving our capacity for performance measurement;
- more effective planning linking risks, priorities and costing to the C&P workplanning process;
- updating/re-building the national C&P information systems.

In addition to these initiatives, the C&P program has been directed by the Deputy Minister to implement a line reporting structure (up to the level of the Regional C&P Director) in all regions by April 1, 2009. A national working group has been established to lead this work and the successful implementation of the new reporting structures will be a key priority for the program in the coming months and, in reality, the next few years, as the transition period will certainly continue well beyond April 1, 2009.

One of the key tools for ensuring the success of the new line reporting structure will be the implementation of the Operational Planning and Budgeting Process (OPBP) that was developed as part of the CRM initiative. The process was developed as a method to ensure effective utilization of human, fiscal and material resources by linking budgets to priorities and service level demands. It provides the framework for a fundamental cultural and structural change to improve accountability and facilitate the practical implementation of new initiatives. It also facilitates the planning of field staff hours down to the detachment level in accordance with priorities and maximizes the use of existing tracking systems to monitor progress against the planned activities. It has been successfully adopted in two regions and much more work will be required in the next few years to implement the process in the other four regions.

All of the initiatives described above are currently underway and must continue to be treated as priorities in our on-going efforts to reform and modernize the C&P program.

The audit report identifies additional legitimate gaps and shortcomings in the C&P program. Many of these have been recognized by C&P managers for some time and some progress is being made on certain fronts (as detailed in the MAP). If we were to accept all or most of the recommendations, however, and then devote the required resources to implement them, there is a real risk that the on-going work on the important CRM and line reporting initiatives described above would be de-railed. The number of staff available to work on these projects is very limited, and we have very real capacity issues to address as we try to move our current initiatives forward. For that reason, we have made it clear from the outset that the implementation of changes will take time but that we will make every effort to make steady and incremental progress. There is very little capacity to undertake significant new projects such as the ones recommended by the audit report.

Therefore, the determination of priorities has been a key consideration in the development of the MAP in response to the audit report. Although most of the recommendations address valid issues, we simply are not in a position at this time to dedicate the resources that would be required to implement all of them. In developing the MAP, we took into consideration the priority rankings (high, medium or low importance) assigned to the recommendations by the audit team. We have tried to make commitments for specific actions and target dates for those recommendations that are deemed to be achievable and rated as high priority. Focusing our efforts on these areas will have impacts on other program initiatives already underway, but the workload should be manageable as long as we do not try to take on too much, too soon.

**Management Action Plan**

Recommendations	Management Action Plan	Status Report Update	
		Officer of Prime Interest	Target Date
<b>1. The Director General C&amp;P</b>	C&P will review all existing	Conservation	<b>November 2008</b>

<p><b>should, in conjunction with Regions and with supported Sectors as appropriate, update existing policies and further develop a comprehensive suite of program policies and procedures which are centrally managed to strengthen and standardize compliance and enforcement efforts as a cohesive Departmental Enforcement Service. (High importance)</b></p>	<p>national policies and identify those that need updating.</p>	<p>and Protection – Fisheries and Aquaculture Management</p>		
	<p>C&amp;P-NHQ will document and prepare a summary of all existing Regional policies.</p>			<p><b>January 2009</b></p>
	<p>The DG C&amp;P will establish a National Policy Committee with clearly defined Terms of Reference.</p>			<p><b>January 2009</b></p>
	<p>The National Policy Committee will develop guidelines for a structure of Policies, Standard operating Procedures and Guidelines and the hierarchy of National and Regional documents. A Guidance document will be provided for approval of Senior Management.</p>			<p><b>February 2009 to March 2009</b></p>
	<p>The Policy Committee will identify policy gaps and assess policy requirements. Through the use of a facilitator this Committee will develop and apply a risk management model to assess the priority for development of specific policies, procedures and guidelines. This model once accepted will form the basis for annual work planning.</p>			<p><b>March 2009</b></p>
	<p>The model will be employed to assess current needs which will form a recommendation to Senior Management setting out priorities for policy development. This process will also identify research that may need to be undertaken to facilitate policy development.</p>			<p><b>March 2009</b></p>
	<p>Phase I C&amp;P will immediately increase its focus on determining critical policy renewal and development to be undertaken. Delivery options will be explored, including contracts, regional leads, special assignments, etc.</p>			
	<p>Phase II Work to build capacity required to review and revise existing policies, and address policy gaps due to evolving enforcement issues.</p>			<p><b>Dependant on additional resources</b></p>
<p><b>2. The Director General C&amp;P should annually, in conjunction with Regional authorities review all compliance and enforcement memoranda of understanding and major formal agreements with other Sectors, departments, levels of Government and other</b></p>	<p>C&amp;P will conduct a review of all MOUs and formal agreements with other Sectors, departments, levels of Government and other enforcement services and will develop an electronic repository to be posted on the C&amp;P Intranet site. A national coordinator will be assigned to maintain the</p>	<p>Conservation and Protection Program – Fisheries and Aquaculture Management</p>	<p><b>An electronic list of all formal agreements and MOUs developed by March 2009</b></p>	

<p><b>enforcement services as a means to improve accountability and to ensure the agreements remain current, relevant and effective. (High importance)</b></p>	<p>repository.</p> <p>The program will identify regional and/or NHQ champion(s) who will be responsible for identifying when MOUs or formal arrangement are no longer current or no longer required and will communicate this to the appropriate national committee. The national committee or individual assigned will be responsible for bringing recommendations to the National C&amp;P Directors Committee for approval.</p> <p>C&amp;P will have to build the required structure to support this initiative in the long term.</p>		<p><b>Identify MOU's and formal arrangements requiring further review by December 2009</b></p> <p><b>Repository of MOU's held nationally by December 2009</b></p>
<p><b>3. The ADM Fisheries and Aquaculture Management and ADM Oceans and Habitat should revise the National Habitat Compliance Protocol to make a clear distinction between administrative and law enforcement functions, to facilitate a common collaborative approach across the department and to mitigate the potential health and safety risk to habitat officials. (High importance)</b></p>	<p><b>[possible cabinet confidence]</b></p> <p>The National Habitat Compliance Protocol describes this new direction within a practical operational context. The potential health and safety risk has come to the forefront due to the lead role of Habitat Management staff in responding to occurrences. A joint meeting of the Habitat Management and Conservation and Protection National Directors committees will be held in early 2009 and the National Habitat Compliance Protocol will be reviewed by the Spring 2009. Health and Safety training requirements to mitigate the risk associated with occurrence response will be identified and provided to all Habitat Management staff involved in habitat inspections.</p>	<p>Habitat Management Program and Conservation and Protection Program.</p>	<p><b>Meeting of C&amp;P Directors and Habitat Management Directors in January / February 2009</b></p> <p><b>Review of National Habitat Compliance Protocol – June 2009</b></p>
<p><b>4. The Director General C&amp;P should, in consultation with other Sectors and Regions, promulgate an annual DFO compliance and enforcement strategy that communicates strategic program objectives and priorities with performance measures and allocates the nationally controlled resources to guide Regional planning and maximize the effectiveness of the decentralized operations through a cohesive departmental plan. (Medium importance)</b></p>	<p>C&amp;P has recently completed the DFO Compliance Review and Modernization initiative and has identified medium to long term strategic direction as outlined in the new Compliance Framework.</p> <p>This framework constitutes the three to five year strategic direction for the program. C&amp;P will also refine its governance structure to include a strategic planning session with the National C&amp;P Directors Committee near the end of every fiscal year.</p>	<p>Conservation and Protection Program- Fisheries and Aquaculture Management</p>	<p><b>National C&amp;P Directors strategic planning meeting to be held annually in the Jan/Feb period. IRM workshops to be held during same period.</b></p> <p><b>Incorporate in C&amp;P planning cycle beginning in FY 09/10</b></p>

	Regional Integrated Risk Management workshops will be held during the same time period to help assess the program risks. Priorities, targets and performance measures will be identified and included in the Sector Business Plans. National priorities will be communicated to the regional level to be incorporated into the Area operational planning process and will be reflected in the new Operational Planning and Budgeting Process.		
<b>5. The Director General C&amp;P should establish minimum national enforcement equipment scales and specifications for application in all Regions; and monitor future program requirements through lifecycle planning in cooperation with the Regional HQs. (Low importance)</b>	C&P will develop a process for establishing and reviewing a standard equipment scale (beyond clothing and personal protective equipment).	Conservation and Protection Program – Fisheries and Aquaculture Management	
	C&P will establish a National committee to do the following: develop the process to evaluate equipment standards; advise on life cycle management plans; coordinate annual priority setting for equipment standards.		<b>March 31, 2009 - establish committee and adopt Terms of Reference</b>
	The National Equipment Committee will prepare a list of enforcement equipment, with standards where available, which will be posted on the C&P Intranet site.		<b>September 30, 2009</b>
	Each region will report on their compliance with the standard and also plan for the life cycle management of this equipment. Life cycle management will only apply to equipment of a certain value to be determined. Life cycle management will be dependent on available resources.		<b>Ongoing, once equipment scales and specifications established</b>
<b>6. The Director General C&amp;P should establish a national intelligence program in partnership with other organizations to more effectively manage the program by possessing the capacity to: advise other sectors of trends or threats adversely affecting fisheries resources and fish habitat; promulgating effective strategic guidance for Regional C&amp;P activities; and supporting the Regional efforts in all three pillars with useful intelligence products. (Medium importance)</b>	Under the DFO Compliance Review and Modernization initiative, the need for a national intelligence program was identified and a working group was established to develop options and recommendations for filling this gap in the program. This working group has developed a model to achieve the intelligence gathering and analysis objectives.	Conservation and Protection Program.	<b>Current Intelligence and Analysis capacity including Major Case Management / Intelligence Committee will be maintained.</b>
	The C&P program has successfully piloted Regional intelligence programs that have proven to be effective and will likely continue to be supported internally.		<b>Ongoing, no target date.</b>
	There are presently insufficient resources and very limited flexibility within C&P to implement		<b>Ongoing, no target date.</b>

	a fully functional model across the country. Initial focus - plan activities based on current resources; identify the priorities for current capacity.		
	Maintain a more detailed plan for Intelligence Analysis and Major Case Management capacity to provide guidance for gradual growth should resources become available.		<b>Ongoing, no target date.</b>
<b>7. The ADM Fisheries and Aquaculture Management should strengthen controls for fishery officer, guardian and inspector designations pursuant to Sections 5 and 38 of the Fisheries Act by: centralizing the designation and monitoring authority under the Director General C&amp;P; and making compliance with the Code of Conduct for Fishery Officers, or for other enforcement services, their own professional enforcement code of conduct or equivalent measures agreeable to the Director General C&amp;P, a condition of designation under the Act. (Medium importance)</b>	Designation, monitoring authority and record keeping for all Fishery Officer and Habitat Inspector designations are already centralized at NHQ. C&P will review and update the current inventory including class designations of other enforcement organizations.	Conservation and Protection Program – Fisheries and Aquaculture Management	<b>December 2008</b>
	All of DFO sectors receiving designations under Sections 5 will be advised of the requirement to respect and adhere to the Code of Conduct.		<b>March 2009</b>
	New training requirements for s. 38 designations will be developed. This training will become a prerequisite for Inspector designations		<b>December 2008</b>
	As the authority to designate guardians rests with the RDG's, records for these designation will continue to be managed by the regions but will be updated and provided to NHQ on a regular basis.		<b>March 2009</b>
	C&P will review class designations, including a survey of activities carried out under these designations since the last survey. C&P will document the code of conduct or similar standards that designated individuals or classes are subjected to. Will then assess the implications and consider the options.		<b>March 2010</b>
<b>8. The Director General C&amp;P should develop competency profiles stating knowledge, skill and experience standards and expand the FOCPP beyond GT-04 through the management levels to support human resource development and succession planning. (Low importance)</b>	Competency profiles for all C&P positions currently exist with the exceptions of Area Chiefs (PM-06).	Conservation and Protection Program – Fisheries and Aquaculture Management	
	The current FOCPP budget is limited largely to supporting the ongoing recruitment and training process (one troop of 30 recruits per year to keep up with attrition). C&P supports this recommendation relating to		<b>Ongoing, no target date.</b>

	human resource development and succession planning beyond the GT-04 level and will attempt to secure funds to make this happen.		
	The National C&P Training Committee will continue to identify opportunities for human resource development beyond the GT-04 level based on the existing competency profiles.		Ongoing, no target date.
	All C&P staff will be given the opportunity to develop Personal Learning Plans.		Ongoing, no commitment beyond current program
<b>9. The Director General C&amp;P should introduce a professional standards audit program independent of line reporting relationships to maintain professional competencies at all levels. (Low importance)</b>	The C&P program has already recognized the need for a professional standards audit program. Efforts were made a number of years ago to establish formal audit processes. Workload and resource issues have slowed progress on these initiatives.	Conservation and Protection Program – Fisheries and Aquaculture Management	No Target Dates
	Given all of the other commitments and funding pressures, C&P is not in a position to commit to any new investments in a professional standards audit program.		
<b>10. The Director General C&amp;P should introduce a formal public complaint process independent of line reporting as a means to enhance professional competence, accountability and transparency for those who perform fisheries and habitat compliance, inspection and enforcement functions pursuant to Sections 5 and 38 of the Fisheries Act. (Medium importance)</b>	The public have the opportunity to forward complaints to the Minister or DFO Senior Management. The C&P program already has a well established Code of Conduct which deals with the majority of issues that are raised regarding alleged improper behaviour on the part of fishery officers, including certain situations involving public complaints (depending on the circumstances).	Conservation and Protection Program – Fisheries and Aquaculture Management	
	C&P will examine a process developed by the Pacific Region for receiving, tracking and responding to public complaints, to determine if there is potential to expand the process for national application.		March 2009
	The cost of introducing a formal public complaint process and interference complaint process with independent oversight bodies would be prohibitive and could not be justified given the amount of cases that would be referred. The current process and options to go outside of this process are adequate to ensure that complaints are dealt with in a fair and transparent manner.		No Target Dates
<b>High</b> – major control weakness and/or an undesirably high level of risk.			

**Medium** – control weakness affecting operational effectiveness and/or credibility.

**Low** – control or process weakness contributing to inefficiency.

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## Appendix A - Comparison of Key Enforcement Policies/Procedures

Policy/Procedure Topic	IACP (1)	CFMP (2)	RCMP (3)	C&P (4)
<b>Administrative Policies</b>				
Mandate and Authority	X	X	X	R
Organizational Structure/Roles Responsibilities				
Code Of Conduct	X	X	X	N
Public Complaints	X	X	X	
Internal Discipline	X	X	X	
Policy Board/Review Timeline on Polices	X	X	X	
Jurisdiction, Borders And Enforcement Scope	X	X	X	
Use of Personal Protective Equipment				N
Plain Clothes Operations, Equipment Standard and Dress Code	X	X	X	
Training, Fitness, Qualification And Re-Certification	X	X	X	
Acquisition of Approved Enforcement/Operational Equipment.	X	X	X	N
Officer Credentials	X	X	X	N & R
<b>Operational Policies</b>				
Patrol Officer Function and Responsibilities	X	X	X	
Investigator's Function/ Responsibilities	X	X	X	
Major Case Pre-Qualifying/Investigation Policy	X	X	X	
Intelligence Officer/Department Responsibilities	X	X	X	
Paid Informants Policy /Procedure		X	X	R
Public/Media Relations/Education/ Program Policy	X	X	X	R
Crime Prevention Program Policy	X	X	X	
Use of Force/Force Continuum Policy.	X	X	X	N
Procurement Use And Standards for Communications Equipment		X		
Vehicle /Emergency Equipment (And Use Of) and Operation Of Vehicle For Pursuits/Traffic Stops etc.	X	X	X	R
Firearms, Use, Wearing, Storage	X	X	X	N
Intermediate Weapons Policy and Procedure.	X	X	X	R
Soft Body Armour Standards/Wearing				N
Property and Evidence Management (Storage and Disposal)		X	X	R
Search and Seizure of Vehicles/Persons and Warrants.	X	X	X	R
Arrest, Transport of Detainee/Detention Policy. Use of Mechanical Restraints.	X	X	X	
Criminal Intelligence Program and Use/Sharing of Intelligence Information and Data Management.	X	X	X	
Officer Safety Protocols.	X	X	X	
Serious/Violent Incident Reporting Policy		X	X	N
Disaster Response Planning.		X	X	
Surveillance/Use of Aircraft/Electronic Interception and Recording Devices		X	X	R
Court Procedures And File Management.	X	X	X	
Supervisor Availability/ "On Call" Requirements.	X	X	X	
Ongoing Self Audit/Evaluation Program	X	X	X	
Psychological Assessments of Officers				N
Officer Suicide Policy				N
Policy on Admission of Liability				N

## Notes:

- IACP – International Association of Chiefs of Police
- CFMP – Canadian Forces Military Police
- RCMP – Royal Canadian Mounted Police
- C&P – “N” represents a National program document and “R” indicates that at least one DFO Regional C&P office has produced their own document.
- The summary of IACP and CFMP topics is derived from document analysis. Due to the size and scope of the RCMP mandate, the summary of represented topics was derived through an interview with a long serving senior RCMP Officer in the training department.
- The analysis of National policies and procedures noted several other prudent policies that are specific to program operations; and Regional holdings included various procedural topics such as how to write notices for fishers, navigation aid, re-tagging of crab traps at sea, lobster and crab tag placement, lobster pounds, warning forms, inshore vessel inspection report. These items were not included in the comparison table because they are specific to *Fisheries Act* enforcement and no viable comparison against other services is possible.

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