

Opening Statement

Mot d'introduction

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Board*

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canadiennes*

An appearance before the
Standing Committee on
National Defence

Comparution devant le
Comité permanent de la
Défense nationale

Bill C-41

Projet de loi C-41

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Mr Chairman,

Honourable members,

Good afternoon. It is a pleasure to be here with you today to answer your questions concerning the Canadian Forces Grievance Board's role in the military grievance process, given that there are provisions in Bill C-41 which directly affect us.

Joining me here today is Caroline Maynard, General Counsel and Director of Operations at the Board.

I would like to begin by giving you an introduction to the Board.

In operation since June 2000, the Canadian Forces Grievance Board is a quasi-judicial tribunal which is independent from the Department of National Defence and the Canadian Forces; it is, in effect, the external component of the Canadian Forces grievance process.

Since its creation, the Board has earned a reputation as a centre of excellence in analyzing and resolving military grievances and has developed a substantial expertise on a variety of subjects relating to the administration of the affairs of the Canadian Forces. Apart from dealing with individual grievances, our work enables us to identify trends and areas of dissatisfaction, which we regularly share with the senior leadership of the Canadian Forces.

The Board is mandated to review the grievances referred to it under the *National Defence Act* and the *Queen's Orders and Regulations for the Canadian Forces*. Under the regulations, four types of grievances must be referred to the Board, which represents some 40% of the total that reach the final level of the grievance

process. Other grievances can also be referred to the Board on a discretionary basis.

Upon completing its review of a grievance, the Board simultaneously submits its Findings and Recommendations to the grievor and to the Chief of the Defence Staff who is the final decision maker. The Chief of the Defence Staff is not bound by the Board's Findings and Recommendations, but must provide reasons, in writing, should he choose not to act on them.

I am pleased to note that Bill C-41 includes a provision which would replace the Board's current name with "*Military Grievances External Review Committee*". This may appear a minor matter, but it is in fact an important change that has long been sought by the Board.

The Board feels that its current name does not reflect its external role and that it has led to misunderstandings by giving the impression that the Board is internal to the Department of National Defence and the Canadian Forces. The resulting confusion and complications have often been counter-productive.

This name change will lead to a better understanding of the specific and unique role for which the Board was created. It will also underline its institutional independence while clarifying its mandate.

Also, as Bill C-41 is intended to be the legislative response to the report submitted by the late Chief Justice Antonio Lamer on military justice, I would like to reaffirm the Board's support of the 18 recommendations related to the grievance process that are included in this report.

Several of these recommendations have already been implemented and others are contained in Bill C-41. Three recommendations, however, which specifically relate to the Board and which were intended to facilitate its work, do not appear in the Bill. One of these recommendations proposes that Board members be

permitted to complete their caseload after the expiration of their term. A second would provide the Board with a subpoena power, while the third calls for the alignment of the Board's annual report with the fiscal year rather than the calendar year. To give effect to these recommendations, legislative amendments to the *National Defence Act* will be required.

Beyond these 18 recommendations, Chief Justice Lamer also pointed to other difficulties when he noted that, and I quote "... *the grievance process continues to suffer from unacceptable delays, it is overly bureaucratic and continues to lack transparency.*"

The Board shares the concerns of Chief Justice Lamer.

For this reason, on the issue of timeliness, the Board has worked diligently over the years to increase its efficiency and has managed to reduce its file review to an average of 90 days. It has also been able to eliminate its backlog and to reduce its inventory of grievances, all this while ensuring that the quality of its work remains at a very high standard.

As a final point, I would like to return to the fact that only certain types of grievances are sent to the Board for review.

The *National Defence Act* places no restrictions on referrals to the Board; however its implementing regulations limit our review to only four types of grievances. Because of this, the majority of Canadian Forces members whose grievances reach the final level do not benefit from an external and independent review of their grievance by the Board.

In examining only a fraction of the unresolved grievances at the final level, the Board is of the view that it is not being used to its full potential. We believe that every Canadian Forces member should, at the final level, have their unresolved

grievance reviewed by the Board, regardless of the subject matter. This is a question of fairness and transparency, which were concerns raised by Chief Justice Lamer in his report.

On this subject, I would like to express the Board's satisfaction with the introduction, on January 1st, of an innovative pilot project, whereby the Canadian Forces have begun referring to the Board all unresolved grievances that reach the final authority level.

Although this is a pilot project and these additional files are being referred to the Board pursuant to the discretionary power found in the regulations, the Board firmly believes in the benefits of such a model. By having all unresolved grievances reviewed by the Board, members of the Canadian Forces and the Chief of the Defence Staff benefit from an independent and expert review. This optimizes the Board's contribution to the grievance process.

The Board is optimistic and hopes that this new model, if it performs as well as expected, will be adopted and implemented. Amendments to the *National Defence Act* and its regulations may be required for full implementation.

Mr Chairman, in conclusion, the Board...

...welcomes the name change proposed by the Bill ...

...is encouraged by the recent initiatives put forward by the Canadian Forces regarding a new model for referring grievances...

...and remains resolved to maximize its contribution to the military grievance process.

I thank you for inviting me to speak here today. I would be pleased at this time to answer your questions.