

REPORT TO THE MINISTER OF NATIONAL DEFENCE

APRIL 2015



Boards of Inquiry

Families in Focus

Findings

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2 The Office of the Ombudsman has been tracking and reporting on issues related to the Canadian Armed Forces' engagement of families during a Board of Inquiry process for the past 10 years.

3 Specifically, the 2005 Ombudsman's report *When a Soldier Falls: Reviewing the Response to MCpl Rick Wheeler's Accidental Death* identified problems with the way Master Corporal Wheeler's death was investigated, and concluded that these problems, combined with a perceived lack of sensitivity to the needs of his surviving family, led his widow to question the trustworthiness of the Canadian Armed Forces.

4 In response to *When a Soldier Falls*, the Chief of the Defence Staff ordered a complete review of the Board of Inquiry system in order to bring "consistency, coherence and reliability to the Board of Inquiry process." As a result of that directive, the Canadian Armed Forces stood-up a Process Review Team in 2005. The team produced a comprehensive report, which included 36 recommendations to improve the Board of Inquiry process. On the issue of family inclusion, the report was definitive, stating that the "preference will be in favour of the family with exclusion being the exception," thereby reinforcing that family closure and understanding are an important part of the process. The report also noted the negative impact of unwieldy delays and excessive bureaucracy on families.

5 Subsequent initiatives and directives followed, including the assessment or attribution of the impact of personal factors (home life) being removed from the considerations of any further Board of Inquiry related to suicide. Additionally, a Canadian Forces Family Covenant was signed in September 2008, which signaled a commitment to recognize, honour and partner with families to enhance family life of Canadian Armed Forces personnel.

6 In 2009, the Ombudsman's Office followed up on the implementation of the recommendations in the *When a Soldier Falls* report. The review indicated that while there had been some improvement, there were many areas where more assertive action needed to be taken to ensure proper support to family members both during and after the Board of Inquiry process.

7 In response to these concerns – which were also reiterated in a 2010 Ombudsman press conference – the Minister of National Defence acknowledged that Boards of Inquiry "at times lack the compassion needed by families during these troubling times." The Minister outlined 13 Vice Chief of the Defence Staff initiatives (Annex A) to improve the Board of Inquiry process.

8 In the opinion of the Office of the Ombudsman, 11 of the 13 initiatives have been implemented. Of particular note, the Chief of Review Services was given responsibility for the administration and oversight of the Board of Inquiry process in its entirety on June 1, 2014.

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9 Prior to this change, there was a two-tier approach to processing Boards of Inquiry. In Boards of Inquiry related to death, serious injury or suicide while on operations, the process took an average of three to four months, with the Chief of the Defence Staff serving as the approving authority. Conversely, processes handled by Director Casualty Support Management 2 for non-operational incidents took an average of **three to four years**. These lengthy delays were subject to criticism in both parliament and media coverage.

10 On January 30, 2014, the Minister of National Defence stated in the House of Commons that “with respect to the outstanding boards of inquiry... I have asked the Canadian Armed Forces to make their completion a priority. I want to see the result of those, as do all the families who are affected by this. As a result, I can say that the Chief of the Defence Staff has recently directed a dedicated team to be convened to close outstanding boards of inquiry as quickly as possible.” The Chief of the Defence Staff-directed tiger team cleared the backlog of Boards of Inquiry in mid-2014.

11 Although clear incremental progress has been made over the past four years, Boards of Inquiry remain military-centric and difficult to understand for many families. The human dimension sometimes gets lost in a process designed for fact gathering, not family engagement. As such, existing mechanisms surrounding the Board of Inquiry process appear insufficient for those families who are seeking answers while also navigating the emotional fallout from the loss or serious injury of a loved one.

12 One of the key Vice Chief of the Defence Staff initiatives identified in 2010 was:

13 *“Introducing a senior non-commissioned member into the Vice Chief of Defence Staff team who will track all sensitive Boards of Inquiry and/or Summary Investigations from a family’s perspective to advise on timely interaction and staffing.”*

14 A non-commissioned member (Master Warrant Officer) was assigned to engage families for a six-month period. The role was discontinued after it was deemed (by the incumbent Master Warrant Officer) to be ineffective.

15 It remains the view of the Ombudsman that families should be given the option of engagement throughout the Board of Inquiry process via a means of their choosing. However, insufficient data and family feedback currently exists to credibly recommend a definitive way forward. To that end, the Ombudsman recommends that:

16 **A family coordinator position be established for a one-year trial period to help identify the needs of families and effective methods of communication and liaison.**

17 That position should coordinate requirements between the Chief of Review Services and the Director Military Family Services (or any other key stakeholder) to develop those requirements from a holistic family-needs perspective. The Ombudsman will provide the resources necessary to fulfill this undertaking. This recommendation would help ensure the department is better equipped to reinforce family inclusiveness in regards to the Board of Inquiry process.

Annex A: Status of Vice Chief of Defence Staff’s 2010 Initiatives to Improve the Board of Inquiry Process

Initiative	Status
A. Revising the current format of standardized convening orders to streamline the process, reduce the number of findings, and decrease the overall time for completion.	Implemented
B. Reducing the number of levels of review required to approve a Board of Inquiry and/or Summary Investigation.	Implemented
C. Empowering the AISC with governance and oversight responsibilities.	Implemented
D. Publishing the repository of lessons learned on the CRS DIN site, making them available to all members of the CF.	Implemented
E. Developing an ongoing list of all board recommendations for follow-up and implementation.	Implemented
F. Continuously updating our training package for members tasked with the responsibility of conducting BOI.	Implemented
G. Reinforcing the inclusion of family members throughout the BOI process to engage transparency on all matters.	Not Implemented
H. Forming a working group between the AISC and DCSM to facilitate a more timely review process.	Implemented
I. Reinforcing the addition of a MP advisor to BOI to facilitate coordination with civilian police services and the CFNIS.	Implemented
J. Liaising with allies to seek out best practices—Initial contacts will be made with the US, UK, and Australia.	Implemented
K. Adding a Chaplain advisor to sensitive BOIs to facilitate communication with families and provide guidance to BOI members.	Implemented
L. Introducing into the VCDS team a senior NCM who will track all sensitive BOIs and/or SI from a family's perspective to advise on timely interaction and staffing.	Implemented but deemed ineffective by the Canadian Armed Forces
M. Forming a working group amongst the AISC, the CFPM, and the CFNIS to facilitate the sharing of information to enable the BOI to begin as early as possible.	Implemented

Annex B: Response from the Chief of the Defence Staff

Mr. Gary Walbourne
DND CAF Ombudsman
100 Metcalfe Street, 12th floor
Ottawa, Ontario, K1P 5M1

16 February 2015

Dear Mr. Walbourne,

Thank you for your Report, Boards of Inquiry – Families in Focus. The work contained in that report reflects the professionalism and objectivity of your team members and the results will assist us in our goal of continuing to improve the BOI process and other CAF processes.

I share your concern that the needs of military families following the death or serious injury to a CAF member, particularly regarding the desire for information about the circumstances in which the incident occurred, need to be better met. We need to determine how the CAF can appropriately address those needs.

As you observe in your report, the human dimension sometimes gets lost in the BOI process as this process is designed for fact gathering and not for family engagement. The Board of Inquiry mechanisms, while appropriate for their express purpose, are simply insufficient for those families who seek answers while navigating the loss or serious injury of a loved one.

I am concerned that attempting to use the Board of Inquiry process as a means of satisfying a family's information needs could reduce the effectiveness of these Boards to achieve their fact-finding purpose, and will likely fall short of family expectations.

It would be beneficial, in assessing how the CAF may better respond to a family's desire for information, to consider that it might be addressed more effectively as an aspect of the other forms of CAF engagement which may occur in the wake of serious injury or death (e.g., support from the unit, the Chaplain, the Director of Casualty Support Management), rather than focusing solely on how it might be satisfied within the Board of Inquiry process.

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As a result, I concur with your recommendation to identify the information needs of families and ensure effective methods of communication and liaison with them, and I accept your offer to provide a member of your team to do help us do so. In this way, together we will determine whether these needs could be served more effectively and appropriately by the BOI process or within the broader CAF engagement with military families which occurs after a death or serious injury.

As such, I propose our joint team address your recommendation in the following two stages:

- As a first step, identify the most appropriate and effective means by which the CAF may be able to meet the information needs of families following a death or serious injury, whether through the Board of Inquiry or other processes; and,
- After analyzing the results, develop a strategy to implement those measures.

Again, I would like to thank you for the professional and objective manner in which your team members have conducted their work.

Sincerely,

T.J. Lawson
General

cc. Deputy Minister