CHIEF OF THE
DEFENCE FORCE

INQUIRY OFFICER INQUIRY REPORT

INTO THE DEATH OF CORPORAL CAMERON STEWART BAIRD MG IN AFGHANISTAN ON 22 JUNE 2013

12 SEPTEMBER 2013

Report redacted for release to public
FOREWORD
On 5 July 2013, I was appointed to conduct an Inquiry Officer inquiry under the Defence (Inquiry) Regulations 1985 by General D.J. Hurley, AC, DSC, Chief of the Defence Force, in his Instrument of Appointment dated 5 July 2013.

For the purposes of this inquiry, I inquired into a matter concerning Joint Operations Command, being the facts and circumstances surrounding an incident that resulted in the death of Corporal C.S. Baird.

My specific findings and recommendations resulting from the inquiry are contained in this report.

12 September 2013
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PART A – INTRODUCTION

Introduction
1. This inquiry was an Inquiry Officer inquiry instituted pursuant to the Defence (Inquiry) Regulations 1985.

2. The authority by which the inquiry was conducted was the Instrument of Appointment signed by Chief of the Defence Force (CDF) on 5 July 2013 and the Terms of Reference (TOR) at Annex A thereto.

3. The incident inquired into occurred on 22 June 2013 in the Shahid-e Hasas District of Uruzgan Province, Afghanistan, and involved an engagement between coalition forces and insurgent fighters which resulted in the death of CPL C.S. Baird.
PART B – METHODOLOGY

Methodology
4. The methods I adopted to conduct the inquiry consisted of:
   a. Inquiry Briefing by CDF Commissions of Inquiry (COI) Directorate personnel.
   b. Inquiry Scoping Phase – The conduct of inquiry planning to develop an evidence collection strategy and a timeline to cover the requirement for evidence assessment and completion of the draft inquiry report.
   c. Evidence collection phase – The interviewing of witnesses and obtaining applicable orders and instructions, policies and other relevant documents across the Middle East Area of Operations (MEAO) and in Australia.
   d. Evidence assessment phase – The analysis of evidence and establishment of initial findings relevant to the Terms of Reference.
   e. Preparing a draft inquiry report setting out my findings and recommendations.
   f. Sending the draft inquiry report to the CDF COI Directorate, for legal review.
   g. Considering comments and advice provided following the legal review and preparing the final inquiry report.
   h. Sending the final inquiry report to CDF via the CDF COI Directorate.

5. A comprehensive list of the Annexes and Attachments is at Annex B. The methodology adopted for this inquiry was consistent with the Instrument of Appointment and TOR which specified, amongst other requirements, that:
   a. the Inquiry Officer (IO) have regard to operational reports and other documentary evidence that are materially relevant to the circumstances surrounding the incident; and
   b. the IO is encouraged to adopt an Inquiry methodology consistent with the need to complete the Inquiry in a timely manner and which, so far as is practicable, minimises adverse impact on the conduct of ADF operations in the MEAO.

6. The TOR also specified that if the IO makes a recommendation that the circumstances of CPL Baird’s death are such that a Commission of Inquiry is, or is not, warranted or appropriate, reasons are to be provided to support this recommendation.

Inquiry Chronology
7. A running sheet which sets out the steps and actions taken in the course of the inquiry is at Part G to this report. The associated witness schedule is at Annex C.
PART C – PROCEDURE

Serious or Complex Inquiry
8. As the incident which is the subject of this inquiry involves the death of a member of the ADF, it is considered to be serious or complex (See Paragraph 17 of CDF Directive 04/2010).

Legal Review
9. This inquiry has been subject to legal review by a Legal Officer who was not appointed as the Inquiry Assistant to the inquiry (See Paragraphs 26-27 of CDF Directive 04/2010 for serious and complex inquiries).

Quick Assessment
10. A Quick Assessment was conducted by the unit concerned prior to the commencement of the inquiry (See Paragraph 8 of DI(G)ADMIN -67-2 – Quick Assessments).

Selection of the Appointing Officer
11. The most appropriate Appointing Officer to conduct the inquiry was selected – CDF is the Appointing Officer for the inquiry (Paragraph 22 of CDF Directive 04/2010).

Jurisdiction
12. Since the Appointing Officer is CDF, the inquiry is into a matter concerning the part of the Defence Force that is under the command or control of the appointing officer (See Regulation 70A of the Defence (Inquiry) Regulations).

Type of Inquiry Selected
13. The type of inquiry selected, an Inquiry Officer inquiry under the Defence (Inquiry) Regulations 1985, was appropriate in all the circumstances, noting that this inquiry has the same statutory authority to enforce its evidence gathering powers over members of the ADF as a Court of Inquiry.

Eligibility for Appointment
14. The Inquiry Officer and Inquiry Assistant were eligible for appointment as they are both officers and they have completed an IGADF Inquiry Officer familiarisation course (See Regulation 70 of the Defence (Inquiry) Regulations and Paragraph 23 of CDF Directive 04/2010).

Appointment of Inquiry Officer
15. The Inquiry Officer and the Inquiry Assistant were properly appointed, as they were appointed by CDF, who is an officer who holds an appointment superior to that of a commanding officer in the Defence Force (See Regulation 70A of the Defence (Inquiry) Regulations).
Impartiality and Independence
16. The Inquiry Officer and Inquiry Assistant conducted the inquiry with absolute impartiality and independence at all times.

17. Statements of impartiality and independence were raised for the Inquiry Officer and Inquiry Assistant at the beginning and at the end of the inquiry.

Terms of Reference
18. The terms of reference were relevant to the subject matter of the inquiry. The Appointing Officer obtained comment and advice on the draft terms of reference.

19. The terms of reference for the inquiry were not added to or varied during the conduct of the inquiry (See Regulation 70B(2) of the Defence (Inquiry) Regulations).

20. The Inquiry Officer has complied with his terms of reference.

Scoping and Planning
21. Scoping and planning were conducted at the commencement of and during the inquiry. The Inquiry Officer's inquiry plan was reviewed on behalf of the Appointing Officer.

Notification of Inquiry
22. This inquiry did not involve any complainant, respondent, or potentially adversely affected persons (See Paragraph 13 of CDF Directive 04/2010).

Procedure
23. The Inquiry Officer complied with the procedures directed by the Appointing Officer (See Regulation 71 of the Defence (Inquiry) Regulations).

Inquiry Assistant
24. The Inquiry Assistant complied with his requirement to assist the Inquiry Officer by gathering evidence and providing it to the Inquiry Officer (See Regulation 70C of the Defence (Inquiry) Regulations).

Conduct
25. The inquiry was conducted in private (See Regulation 72 of the Defence (Inquiry) Regulations).

Taking of Evidence
26. Evidence was not taken on oath or affirmation (See Regulation 73 of the Defence (Inquiry) Regulations).

Refusal by Witnesses
27. No witnesses refused to answer questions or to produce documents and Articles (See Regulations 53, 74 and 74A of the Defence (Inquiry) Regulations).

Time and Place of Inquiry
28. The inquiry was conducted at such times and places as directed by the Appointing Officer.

Informal Procedures
29. While the inquiry was not subject to legal form or to the rules of evidence and although the Inquiry Officer informed himself on any matter relevant to the inquiry, the Inquiry
Officer did use the rules of evidence as a guide to analyse the evidence before making findings and recommendations (See Regulation 50 of the Defence (Inquiry) Regulations).

False Evidence
30. It is considered that no person gave false evidence during the inquiry (See Regulation 56 of the Defence (Inquiry) Regulations).

Contempt
31. It is considered that no person was in contempt of the inquiry (See Regulation 57 of the Defence (Inquiry) Regulations).

Witness Expenses
32. No person is entitled to the payment of witness expenses in relation to this inquiry (See Regulations 78, 60(5) and 50(6) of the Defence (Inquiry) Regulations).

Rights and Obligations
33. All witnesses were informed of their rights and obligations before taking evidence from them.

Notification of Terms of Reference
34. All witnesses were shown that part of the terms of reference concerning the evidence they were to give before taking evidence from them.

Legal Assistance
35. No witness was precluded from seeking legal advice or from having a legal officer assist them during their interview (See Paragraph 14 of CDF Directive 04/2010).

Privacy Notices
36. All ADF witnesses were provided with privacy notices and they all signed these (See Paragraph 15 of CDF Directive 04/2010).

Advice or Assistance
37. Neither of the Inquiry officer or the Inquiry Assistant sought specialist legal advice or assistance on the inquiry process or any legal issues (See Paragraph 12 of CDF Directive 04/2010).

Confidentiality
38. No witness was given a guarantee of confidentiality concerning their evidence and this was made clear to all witnesses before giving evidence.

Immunity from Prosecution
39. No witness was given a guarantee of immunity from prosecution concerning their evidence and this was made clear to all witnesses before giving evidence.

Procedural Fairness
40. As there were no witnesses involved in this inquiry who were potentially adversely affected, there was no requirement to specifically address issues of procedural fairness, nor was there a need to issue any letters of notification of potential adverse findings.
Influence
41. The Appointing Officer did not attempt to influence the Inquiry Officer or the Inquiry Assistant concerning the outcome of the inquiry.

Recommendations
42. The Inquiry Officer believes that any recommendations made are open and flow logically from the evidence.

Standard of Proof
43. The Inquiry Officer used the balance of probabilities as the standard of proof when making his findings.

Reliability
44. The Inquiry Officer does not believe there are any impediments to the Appointing Officer relying on the findings or recommendations contained in the report.

Documentation
45. All the documents required by the terms of reference to be included with the report have been included.

Time
46. The report has been submitted in the time required by the terms of reference.

Report
47. The Inquiry Officer is satisfied that all information relevant to the inquiry that is practicable to obtain has been obtained, that the report has been prepared setting out the findings and recommendations and the report is now furnished to the Appointing Officer with all the evidence obtained, including photographs, digital sound files of the oral evidence taken and all documents received and accepted as evidence (See Regulation 75 of the Defence (Inquiry) Regulations).

Completion of Inquiry
48. In providing the report to the Appointing Officer the inquiry is now complete (See Regulation 75A of the Defence (Inquiry) Regulations).

Re-Opening of Inquiry
49. If there is any reason to re-open the inquiry, it must be done within two months of the completion of the inquiry (See Regulation 76 of the Defence (Inquiry) Regulations).

Protection afforded to Inquiry
50. There are certain protections afforded to inquiry officer inquiries, namely:

- the Inquiry Officer and the Inquiry Assistant have, in the exercise of their duties, the same protection and immunity as a Justice of the High Court;
- a person authorized to appear before an Inquiry Officer or Inquiry Assistant has the same protection and immunity as a barrister appearing for a party in proceedings in the High Court; and
• a witness appearing before an Inquiry Officer or Inquiry Assistant has the same protection as a witness in proceedings in the High Court (See Regulations 78 and 61 of the Defence (Inquiry) Regulations).

Decision and Implementation
51. If the Appointing Officer is satisfied that the evidence supports the findings in this report, the Appointing Officer must decide which recommendations will be implemented, if any, and he will prepare a decision and implementation plan accordingly.

Notification of Outcome
52. As this was not an inquiry into a disputed personnel matter, there is no requirement for the Appointing Officer to provide complainants and witnesses (subject to any privacy considerations) with written notification of the outcome of the inquiry in relation to matters relevant to them.

Disclosure
53. The Inquiry Officer and Inquiry Assistant have complied with the requirements of Regulation 63 of the Defence (Inquiry) Regulations.

Lessons Learned
54. There is a requirement for the Appointing Officer to report any significant systemic issues or serious deficiencies in the quality of an inquiry report or of a legal review (See CDF Directive 04/2010).
PART D – TERMS OF REFERENCE

55. Under the TOR attached as Annex A to my Instrument of Appointment dated 5 Jul 13, I was appointed to inquire into a matter concerning Joint Operations Command, being the facts and circumstances surrounding an incident on 22 Jun 13 in the Shahid-e Hasas District of Uruzgan Province, Afghanistan that resulted in the death of [redacted] Corporal C.S. Baird, and to provide a written report making findings and recommendations in respect of the incident.

TOR 1—sequence of events: Collect relevant evidence and report on the death of CPL Baird including the sequence of relevant events leading up to and during the operation in which he was killed, and after he was evacuated from the scene.

TOR 2—potential procedural weaknesses or deficiencies: Ascertain, analyse and determine relevant circumstances surrounding the death of CPL Baird for the purpose of identifying whether any weaknesses or deficiencies (isolated or systemic) exist in Defence systems, policies, equipment, practices, procedures and training.

TOR 3—potential shortfalls in actions or decision-making: Identify any shortcomings in relevant Defence actions and decisions, both prior to and subsequent to the death of CPL Baird, and assess whether any identified shortcomings prior to the incident may have contributed to his death.

TOR 4—positive observations: In the course of answering the preceding terms of reference, identify whether, and if so how, any Defence systems, policies, equipment, practices, procedures, training, actions or decision making had a positive effect in the lead up to, at the time of and after the death of CPL Baird.

Evidence

56. The evidence collected in relation to each Term of Reference is listed in the footnotes for that Term of Reference and some evidence is also mentioned within the text for each Term of Reference.

57. All requested individuals agreed to be interviewed with the exception of one Afghan interpreter, who refused to participate in the inquiry. Also, relevant tactical commanders of the Provincial Response Company - Uruzgan (PRC-U) were unable to be interviewed as they were killed in action in a separate incident subsequent to the mission on 22 Jun 13. It is assessed that sufficient corroborating statements and interviews accurately reflect the circumstances surrounding the incident, despite their absence.

Analysis of Evidence

58. I have weighed the evidence collected using the rules of evidence as a guide and my analysis of the evidence is set out within the text for each TOR.
Findings

59. My findings in relation to each TOR are set out within the text for that TOR. I consider that they are available on the evidence, on the balance of probabilities.

Recommendations

60. I have made one recommendation which is set out immediately following the corresponding TOR. I consider that my recommendation flows logically from the relevant finding.
TOR 1 – Sequence of events

Death of CPL C.S. Baird

Date/Time/Place of incident

61. The incident occurred on 22 June 2013, at approximately 0930 hours DE, in the vicinity of , Shahid-e Hasas District, Uruzgan Province.

Background

62. On 22 Jun 13, CPL Baird as the team commander and part of a six man group (Alpha), from Rotation 19, Task Force 66 (TF66) Force Element (FE), were on OP [Redacted] a SOTG pre-approved mission. The operation was a [Redacted], Rotary Wing (RW) and PRC-U enabled operation in multiple locations within Shahid-e Hasas District, Uruzgan Province, over the period 21-22 June 2013. The mission had been delayed from an earlier planned period in June due to [Redacted] availability. The purpose of the mission was to clear known insurgent locations in order to Shahid-e Hasas District as an and support the transition to autonomous security responsibility in Uruzgan. The mission and broader operation was conducted with appropriate approvals and clearances from [Redacted], as part of , was involved in what was a FE-[Redacted] size deliberate operation conducted in phases. It was
in the course of [REDACTED] of the operation during a [REDACTED] on an insurgent position that CPL Baird was fatally wounded.

Finding 1: The mission conducted by the ADF personnel involved in the incident was consistent with extant orders and directives from commanders.

Circumstances prior to the incident

63. [REDACTED] commenced with the insertion of [REDACTED] and a partnered PRC-U force into a Helicopter Landing Site (HLS) north of [REDACTED]. The overall partner ratio for the clearance force was [REDACTED]. PRC-U elements led the clearance southwest to [REDACTED], with [REDACTED] enabling the PRC-U clearance and [REDACTED] providing a screen to the PRC-U western flank. [REDACTED] confirmed the level of threat from [REDACTED], and provided an early assessment of hostile activity and preparations for likely offensive action against FE-B and PRC-U force elements. This was based on intelligence briefs leading up to the mission and [REDACTED]. Evidence indicates the dress and force protection posture of [REDACTED] elements, including CPL Baird, was consistent with SOTG orders and directives, the level of threat and what was a combat-related activity.
64. During the clearance, PRC-U and Charlie were engaged in the vicinity of compound 52 and sustained one casualty. Charlie, the team commander of Charlie, and enabled force were moving to provide support to Charlie Alpha, both from various compounds and the surrounding areas. An intelligence update as a result of indicated the intention by the insurgents to fight from compound to compound and to get their weapons ready. Alpha elements continued the clearance to a prominent insurgent position in the vicinity of compound 52.

Finding 2: The dress and force protection posture of ADF personnel leading up to and during the incident was consistent with extant orders and directives from commanders.

Incident

65. The firing from the insurgent compound included a combination of machine gun and small arms fire from a single room, delivering fields of fire spanning across multiple open archways outside the compound main building. The room was later found to hold insurgents with a range of weapons systems, ammunition and equipment. Alpha members were being engaged, and in order to regain the initiative, commenced actions to conduct a on the insurgent position. There was minimal visibility within the compound due to the firing and from Alpha personnel and the returning fire from the insurgents. CPL Baird coordinated the actions of his team to
attempt with available weapons systems, where troop safety allowed, in order to neutralise the threat. Insurgents continued to deliver effective fire through what was a single entry door into the room. On a third attempt by CPL Baird and Alpha to tactically move under fire to the door that led into the insurgent position, as fire was being delivered from members, CPL Baird was shot and killed. The procedures employed by the members were consistent with those employed in training, certification exercises and operations during the deployment leading up to the incident.

Immediate actions

66. Soldier 4 coordinated the actions of Alpha to suppress the insurgent position, enable the extraction of CPL Baird from within the compound, confirm with Bravo the lack of vital signs of CPL Baird and report the fatality to Delta. Elements reinforced Alpha at the compound and supported the neutralisation of the insurgents and the subsequent clearance of the compound. Elements of Alpha and PRC-U proceeded to stretcher carry CPL Baird and marry up with elements including Soldier to a HLS for CASEVAC.
Subsequent actions

67. Both [REDACTED] and CPL Baird were evacuated by AME to the US Role Two medical facility situated at Forward Observation Base (FOB) Ripley, which was complete by 1041 hours DE on 22 June 13. Evidence indicates that the CASEVAC was conducted consistent with documented procedures and that the personnel involved contributed positively to reducing further injury to [REDACTED] following the incident. [REDACTED] extracted as part of the FE-2 plan at approximately 1230 hours DE.

68. The operational and national reporting of the incident was consistent with extant orders and directives [REDACTED] A Quick Assessment (QA) into the incident was conducted by [REDACTED] ADFIS conducted a DFDA investigation and completed a Service Police Report on 24 June 2013 [REDACTED].

Finding 3: The operational and national reporting of the death of CPL Baird was consistent with orders and directives from commanders.
Deaths and Injuries

69. CPL Baird died in the incident as a result of being shot at close range. There is insufficient evidence to indicate the sequence in which CPL Baird received these injuries. Medical evidence indicated would likely have caused death instantly. CPL Baird was wearing combat body armour and appropriate head protection at the time of the incident.

70. A QA conducted by outlines the extent of injuries sustained by ADF and PRC-U personnel in separate incidents that occurred during the same mission which resulted in the death of CPL Baird. This QA correctly corresponds with information provided by
the members directly involved in the incident, as well as others who are relevant, in
their interviews with the inquiry team, medical documentation and in-theatre
reporting.

Training

71. Personnel involved in the incident were qualified, had received appropriate force
preparation training, Mission Rehearsal Exercises (MRE) and were certified prior to
deployment. Interviews from members of [Redacted] and tactical commanders
directly involved in the incident indicate the actions undertaken by the Alpha
personnel, including CPL Baird, were consistent with tactics, techniques and
procedures (TTP).
Finding 4: All personnel were appropriately qualified, trained and certified for deployment. The actions of CPL Baird and members of Alpha were consistent with procedures for...

Cause of the incident

72. CPL Baird was shot and killed by small arms fire, at close range, during the tactical action of himself and another to move to the door that led into the insurgent position. This movement occurred as fire was delivered from Alpha members to the insurgent position. The purpose of the... Evidence indicates that small arms fire came from up to insurgents from a variety of weapons systems through what was a single entry door into the room. Evidence indicates the tactical action was the third attempt by CPL Baird and... and followed previous actions, led by CPL Baird, to neutralise the threat... with available weapons systems, where troop safety allowed. The procedures were consistent with those employed in training, certification exercises and operations during the deployment leading up to the incident.
Finding 5: The death of CPL Baird was as a result of receiving small arms fire, at close range, during the attack of an insurgent position within compound [REDACTED] in Shahid-e Hasas District, Uruzgan Province.

Other factors

73. There were no additional factors that had a relevant impact on the cause or events leading up to, during, or subsequent to the incident.

TOR 2 – Potential procedural weaknesses or deficiencies

74. The inquiry did not identify, as a result of interviews and the collection and analysis of all relevant documentation, any weaknesses or deficiencies (isolated or systemic) in Defence systems, policies, equipment, practices, procedures and training in the relevant circumstances surrounding the death of CPL Baird.

TOR 3 – Potential shortfalls in actions or decision-making

75. The inquiry did not identify, as a result of interviews and the collection and analysis of all relevant documentation, any shortcomings in relevant Defence actions and decisions, both prior to and subsequent to the death of CPL Baird.

TOR 4 – Positive observations

Actions of CPL Baird

76. Interviews and statements from members of [REDACTED] indicate the leadership, decisiveness and courage displayed by CPL Baird leading up to and during the incident that resulted in his death. CPL Baird’s initial actions in support of PRC-U elements resulted in [REDACTED], seizing the advantage over the insurgent threat during the early stages of the clearance operation, resulting in a number of enemy KIA. Evidence highlights CPL Baird’s leadership, [REDACTED] to coordinate the actions of [REDACTED] personnel and [REDACTED] to neutralise the enemy threat, [REDACTED] within the compound building. These actions were under heavy fire and minimal visibility and at all times considered the safety of [REDACTED] personnel when employing available weapons systems. In his final actions which resulted in his death, CPL Baird led [REDACTED] in a tactical movement to [REDACTED] the door that entered the insurgent position, exposing him to heavy fire at close range. CPL Baird’s actions regained the initiative, resulting in subsequent actions by the remainder of [REDACTED] personnel, supported by [REDACTED] team, to neutralise the threat and clear the insurgent position [REDACTED].
Finding 6: The leadership and actions by CPL Baird directly contributed to regaining the initiative, neutralising the enemy threat, protecting the lives of the members of Alpha successfully clearing the insurgent position and Alpha platoon clearing the enemy in the vicinity of .

Actions of S3

77. Interviews and statements from members of Alpha indicate the courage and initiative displayed by S3 during the incident. S3 repeatedly supported CPL Baird with tactical actions, exposing himself to heavy fire at close range, to neutralise the threat under heavy fire and minimal visibility. On each occasion these actions were under heavy fire and minimal visibility. On awareness that CPL Baird was on the ground within the compound and likely wounded, S3 moved into the compound, exposing himself to heavy fire at close range in front of the insurgent position and dragged CPL Baird outside the compound to a position of safety. On identifying that CPL Baird had no vital signs, S3, along with other Alpha and Delta personnel, moved CPL Baird by stretcher to the HLS for evacuation and assisted personnel in the treatment and support of the other casualty (C2). The actions by S3 in support of CPL Baird contributed to Alpha regaining the initiative, resulting in subsequent actions by the remainder of Alpha personnel, supported by Delta team, to neutralise the threat and clear the insurgent position. Further, S3's actions to extract CPL Baird from within the compound, directly exposed to the insurgent position, under heavy fire and at close range, displayed a disregard for his own safety with an objective to save the life of CPL Baird.
Finding 7: The actions by S3 contributed to regaining the initiative, neutralising the enemy threat and successfully clearing the insurgent position. S3's actions to extract CPL Baird from within the compound displayed a disregard for his own safety with an objective to save the life of CPL Baird.

Actions of S4

78. Interviews and statements from members across FE indicate the leadership and judgement displayed by S4 during and subsequent to the incident. On awareness that CPL Baird was on the ground within the compound and likely wounded, S4 coordinated the deliberate actions of Alpha personnel to suppress the insurgent position and support the actions of S3 to extract CPL Baird from within the compound. During the extraction, S4 personally disregarded his own safety by physically assisting S3 who fell over during the extraction of CPL Baird, ensuring both S3 and CPL Baird were moved to a position of safety. S4 subsequently coordinated the reporting to higher headquarters, maintained effective command of Alpha during the engagement, facilitated a handover to S6 and Alpha teams to continue the assault, followed by coordinating the tactical movement and marry up with Charlie elements to effectively evacuate both casualties to FOB Ripley. FE commanders at all levels and Alpha personnel highlighted the effective leadership by S4 to control the situation, maintain the initiative on the enemy and ensure the successful evacuation of personnel.

Finding 8: The actions by S4 contributed to regaining the initiative, neutralising the enemy threat, successfully clearing the insurgent position and evacuating the casualties to safety. S4's individual actions to support S3 in the extraction of CPL Baird from within the compound, displayed a disregard for his own safety with an objective to save the life of CPL Baird and ensure the safety of S3.

CDF Commission of Inquiry

79. The evidence obtained by this inquiry accurately reflects the circumstances surrounding the incident that resulted in the death of CPL Baird, noting that this inquiry has the same statutory authority to enforce its evidence gathering powers over members of the ADF as a Court of Inquiry. It is assessed that all information relevant to the inquiry that is practicable to obtain has been obtained. There are no other Australian witnesses who are not ADF members and who could provide additional evidence relevant to the
inquiry. Accordingly, there is no requirement for a CDF Commission of Inquiry to be appointed to inquire into the death of CPL Baird.

Finding 9: All information relevant to the Inquiry Officer inquiry that is practicable to obtain has been obtained and there are no other Australian witnesses who are not ADF members and who could provide additional evidence relevant to the inquiry.

Recommendation 1: A CDF Commission of Inquiry to inquire into the death of CPL Baird not be appointed.
PART D – SUMMARY OF FINDINGS

TOR 1 – Sequence of events

Finding 1: The mission conducted by the ADF personnel involved in the incident was consistent with extant orders and directives from commanders.

Finding 2: The dress and force protection posture of ADF personnel leading up to and during the incident was consistent with extant orders and directives from commanders.

Finding 3: The operational and national reporting of the death of CPL Baird was consistent with orders and directives from commanders.

Finding 4: All personnel were appropriately qualified, trained and certified for deployment. The actions of CPL Baird and members of Alpha were consistent with procedures for room clearance in a contested threat environment.

Finding 5: The death of CPL Baird was as a result of receiving small arms fire, at close range, during the occupation of an insurgent position within compound in Shahid-e Hasas District, Uruzgan Province.

TOR 4 – Positive observations

Finding 6: The leadership and actions by CPL Baird directly contributed to regaining the initiative, neutralising the enemy threat, protecting the lives of the members of Alpha, successfully clearing the insurgent position and Alpha clearing the enemy in the vicinity of Alpha.

Finding 7: The actions by 53 contributed to regaining the initiative, neutralising the enemy threat and successfully clearing the insurgent position. 53’s actions to extract CPL Baird from within the compound displayed a disregard for his own safety with an objective to save the life of CPL Baird.

Finding 8: The actions by 54 contributed to regaining the initiative, neutralising the enemy threat, successfully clearing the insurgent position and evacuating the casualties to safety. 53’s individual actions to support 53 in the extraction of CPL Baird from within the compound, displayed a disregard for his own safety with an objective to save the life of CPL Baird and ensure the safety of 53.

CDF Commission of Inquiry

Finding 9: All information relevant to the Inquiry Officer inquiry that is practicable to obtain has been obtained and there are no other Australian witnesses who are not ADF members and who could provide additional evidence relevant to the inquiry.
PART E – SUMMARY OF RECOMMENDATIONS

CDF Commission of Inquiry

Recommendation 1: A CDF Commission of inquiry to inquire into the death of CPL Baird not be appointed.
PART F – CONCLUSION

80. The evidence gathered during the inquiry was sufficient to make the findings set out in this report on the balance of probabilities. There were no unresolved conflicts arising out of the evidence and the witnesses all appeared credible and reliable. The evidence revealed the circumstances surrounding the incident that occurred on 22 Jun 13, as well as what transpired subsequently.

81. In particular, the evidence established that:

- The mission conducted by the ADF personnel involved in the incident was consistent with extant orders and directives from commanders.
- The dress and force protection posture of ADF personnel leading up to and during the incident was consistent with extant orders and directives from commanders.
- The operational and national reporting of the death of CPL Baird was consistent with orders and directives from commanders.
- All personnel were appropriately qualified, trained and certified for deployment. The actions of CPL. Baird and members of Alpha were consistent with procedures.
- The death of CPL. Baird was as a result of receiving small arms fire, at close range, during the occupation of an insurgent position within compound in Shahid-e Hasas District, Urzugan Province.
- The leadership and actions by CPL. Baird directly contributed to regaining the initiative, neutralising the enemy threat, protecting the lives of the members of Alpha, successfully clearing the insurgent position and platoon clearing the enemy in the vicinity of.
- The actions by 52 contributed to regaining the initiative, neutralising the enemy threat and successfully clearing the insurgent position. 53's actions to extract CPL. Baird from within the compound displayed a disregard for his own safety with an objective to save the life of CPL. Baird.
- The actions by 54 contributed to regaining the initiative, neutralising the enemy threat, successfully clearing the insurgent position and evacuating the casualties to safety. 54's individual actions to support 53 in the extraction of CPL. Baird from within the compound, displayed a disregard for his own safety with an objective to save the life of CPL. Baird and ensure the safety of 53.
- All information relevant to the Inquiry Officer inquiry that is practicable to obtain has been obtained and there are no other Australian witnesses who are not ADF members and who could provide additional evidence relevant to the inquiry.
### PART G – RUNNING SHEET

<table>
<thead>
<tr>
<th>Serial</th>
<th>Date</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>8 Jul 13</td>
<td>IO and IA attended inquiry briefing at CDF COI Directorate</td>
</tr>
<tr>
<td>2.</td>
<td>9 Jul 13</td>
<td>Deployed to [Redacted]</td>
</tr>
<tr>
<td>3.</td>
<td>10-11 Jul 13</td>
<td>Commenced Inquiry Scoping Phase, developed Evidence Collection Plan, submitted Inquiry Plan to CDF COI Directorate</td>
</tr>
<tr>
<td>4.</td>
<td>12 Jul 13</td>
<td>Travelled to TK</td>
</tr>
<tr>
<td>5.</td>
<td>12-14 Jul 13</td>
<td>Evidence collection in TK</td>
</tr>
<tr>
<td>6.</td>
<td>15 Jul 13</td>
<td>Travelled to [Redacted]</td>
</tr>
<tr>
<td>7.</td>
<td>16-18 Jul</td>
<td>Evidence collection in [Redacted] and by secure remote means in Australia</td>
</tr>
<tr>
<td>8.</td>
<td>19-21 Jul 13</td>
<td>Commenced Evidence Assessment Phase</td>
</tr>
<tr>
<td>9.</td>
<td>22-23 Jul 13</td>
<td>Commenced writing inquiry report</td>
</tr>
<tr>
<td>10.</td>
<td>23 Jul 13</td>
<td>Submitted inquiry report for legal review</td>
</tr>
<tr>
<td>11.</td>
<td>24 Jul 13</td>
<td>Returned to Australia</td>
</tr>
<tr>
<td>12.</td>
<td></td>
<td>Legal review completed</td>
</tr>
<tr>
<td>13.</td>
<td></td>
<td>Submitted inquiry report to AO</td>
</tr>
</tbody>
</table>
PART H – RECORD

82. Following is a list of all the evidence and documents collected during the inquiry. These are attached to this report.

Witnesses

1. Digital sound file of interview with Soldier 3 (Protected Identity)
2. Digital sound file of interview with Soldier 7 (Protected Identity)
3. Digital sound file of interview with Soldier 8 (Protected Identity)
4. Digital sound file of interview with Soldier 9 (Protected Identity)
5. Digital sound file of interview with Soldier 10 (Protected Identity)
6. Digital sound file of interview with Soldier 11 (Protected Identity)
7. Digital sound file of interview with Soldier 12 (Protected Identity)
8. Digital sound file of interview with Soldier 6 (Protected Identity)
9. Digital sound file of interview with Soldier 12 (Protected Identity)
10. Digital sound file of interview with Soldier 5 (Protected Identity)
11. Digital sound file of interview with Soldier 13 (Protected Identity)
12. Digital sound file of interview with Soldier 14 (Protected Identity)
13. Digital sound file of interview with Soldier 15 (Protected Identity)
14. Digital sound file of interview with Soldier 16 (Protected Identity)
15. Digital sound file of interview with Soldier 17 (Protected Identity)
16. Digital sound file of interview with Soldier 4 (Protected Identity)

Notifications of Proposed Inquiry Findings and Responses

17. Not applicable.

Extracts from relevant publications

18. Rights And Obligations Of Witnesses Before An Inquiry Officer Or Inquiry Assistant, as set out in Annex D to Chapter 6 of ADFP 06.1.4 Administrative Inquiries Manual.

Privacy Notices issued to witnesses
19. Privacy Notice signed by Soldier 3 (Protected Identity)
20. Privacy Notice signed by Soldier 7 (Protected Identity)
21. Privacy Notice signed by Soldier 8 (Protected Identity)
22. Privacy Notice signed by Soldier 9 (Protected Identity)
23. Privacy Notice signed by Soldier 10 (Protected Identity)
24. Privacy Notice signed by Soldier 11 (Protected Identity)
25. Privacy Notice signed by Soldier 1 (Protected Identity)
26. Privacy Notice signed by Soldier 6 (Protected Identity)
27. Privacy Notice signed by Soldier 12 (Protected Identity)
28. Privacy Notice signed by Soldier 5 (Protected Identity)
29. Privacy Notice signed by Soldier 13 (Protected Identity)
30. Privacy Notice signed by Soldier 14 (Protected Identity)
31. Privacy Notice signed by Soldier 15 (Protected Identity)
32. Privacy Notice signed by Soldier 16 (Protected Identity)
33. Privacy Notice signed by Soldier 17 (Protected Identity)
34. Privacy Notice signed by Soldier 18 (Protected Identity)

Statements of Impartiality and Independence

35. Statements of Impartiality and Independence of [Redacted] and [Redacted].

Terms of Reference

36. Terms of Reference annexed as Annex A to Instrument of Appointment dated 5 Jul 13 signed by CDF.

Instrument of Appointment

37. Instrument of Appointment dated 5 Jul 13 signed by CDF.

Documentary evidence

38. 
39. 
40. 

__________________________________________

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