

Submission To

**The Foreign Affairs, Defence and Trade
References
Committee Inquiry**

Into

**Compensation And Other Matters For
Victims**

**Sexual Abuse, Torture And Abuse In The
Australian Defence Force**

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A Victim**

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1.0 Executive Summary

2.0 Current Mechanisms Don't Work

The current mechanisms for dealing with sexual and other abuse for both current and ex service personnel are ineffective and unacceptable.

The current methodology for treatment and support doesn't work. Furthermore for serving personnel seeking help damages your career.

It is also hampered by the culture and the failure of the Senior Officers to enforce current statute regulations and policy.

What is needed is a better mechanism to provide better support. This would include two things:-

- **Serving Personnel** – A Two Star Officer for each service being responsible for providing that support and reporting to Minister For Defence, Chief Of Defence and this committee a de personalised report.
- **Ex Service** – A national advocacy service based upon ex service organisations but funded by the Parliament. It too would provide support and reporting to Minister For Defence, Chief Of Defence and this committee a de personalised report.

3.0 Current Compensation – Non-Existent

Because of the typical delays for a victim coming forward, they are very a number of reasons prevented from seeking compensation in the civil courts.

They face seven hurdles:-

- Hurdle 1 - Actually Coming Forward
- Hurdle 2 - Circumstances Of Discharge / Extreme Difficulty In Proving The Abuse Took Place
- Hurdle 3 – Trying To Find Witnesses
- Hurdle 4 – Getting Witnesses To Give Statements For Fear Of Retribution
- Hurdle 5 - Service Records Hide The Abuse And Real Reason For Separation
- Hurdle 6 – Naming The Guilty – Bringing Them To Justice
- Hurdle 7 – Having Insufficient Time To Be Covered By The Veterans Affairs Act

Therefore only an ex gratia scheme can right the wrong.

4.0 Should The Victims Be Compensated?

The victims should be financially compensated for the following reasons:-

- The Crown and the Commonwealth owed to them a duty of care.
- What was done to the victims, was in defiance of the well as the various statutes of the Federal Parliament and Queens Regulations & Instructions
- The torture and abuse was covered up by those who had a duty to prevent it and protect the victim.

5.0 Needed Characteristics Of Ex – Gratia Scheme

The key elements of the new system amongst other things should include:-

- Be Ex Gratia
- Not be time limited
- Should take into account income foregone (\$5M) – the perpetrators got at least the same from Defence.
- Not affect any pension paid for by the Department Of Veterans Affairs

1.0 General Management Summary

1.1 It Is Easy To Do Justice – Much Harder To Do Right

It is a well observed maxim in law that

“It is very easy to do justice but much harder to right”

It is time we did right by the Victims of Sexual Abuse and Torture in the Australian Defence Forces in General and the Service Colleges and Training Establishments in particular.

That is why a better alternative compensation scheme needs to be established.

The Australian Defence Force Academy and its predecessor service Colleges such as HMAS Creswell, Duntroon and Point Cook seem to have practiced Torture and Abuse on a wide scale destroying the lives of the best of the best that Australia has to offer.

The Torture and abuse is practiced by the victim’s peers with the tacit approval of those around above.

It is covered up and the victim led to believe it is their fault when it is not.

1.2 If What Was Done To Victims Was Done In Prisons Or Refugees – Problem Would Already Be Solved

If what was done to us had been done to:-

- Those in prison, there would be Royal Commissions and heads would have already rolled. (See the Nagle Royal Commission into New South Wales Prisons and the Palmer Inquiry into the Risdon Prison Complex)
- Refugees in Detention, the whole country would be up in arms. (See the Commonwealth Ombudsman’s various reports on refugees and witness the numerous rallies on this topic around the country).

Furthermore, torture and abuse is actually grounds for granting a protection visa.

Yet we have been deafeningly silent to the torture and abuse of the best that our country has to offer.

It is time that it stopped and we opened our eyes and made right that which has been made wrong.

1.3 Important Point To Remember About Senior ADF Officers And Why The Torture And Abuse Continues

At the Service Colleges, there were three types of people:-

- Those who practiced the torture and abuse.
They were protected and given a second chance to complete their careers
- Those who knew about it (and they all know about it) who did nothing to help or protect the victims.
They were given a second chance to complete their careers
- The Victims.
 - They were given no chance at all and
 - A lifetime of pain and suffering

Next time you see a person of the rank of Commander or higher, unless they are specialist such as Doctors they fall into one of the first two categories.

Is it little wonder the torture and abuse continues.

1.4 Remarks About Compensation Of Victims Compared To Others So Far

With regards the specifics of compensating the victims of sexual abuse and torture and abuse, I think it is worth bearing in mind the following:-

- Former Speaker Leo McLeay received \$90,000 in 2011 dollars.
He got it for getting on an exercise bike in the Federal Parliament Gym when he was told not to.
In other words we paid him \$90,000 for a single self inflicted injury.
- With regards convicted criminals serving sentence of imprisonment, in Victoria alone we have:-
 - A \$135,000 payment to kidnapper Toni Vodopic because she slipped in a puddle as she mopped floors at Dame Phyllis Frost prison.
 - \$65,000 plus costs paid to paedophile Anthony Douglas Walters to pay for plastic surgery and counselling after he was attacked in jail.
 - \$120,000 paid to drink-driver Alan Philip Brown who claimed a garden roller door closed on him in Loddon Prison.
 - A \$27,000 claim by prisoner Patrick Trainor in November 2009.
 - \$75,000 plus costs paid to jailed drink-driver Andrew Steel who claimed he hurt his back driving a tractor at Dhurringle Prison.

(Source Herald Sun, August 21, 2011 “Criminals Cash Up on \$400,000 in Compo – Peter Rolfe)

Stephen Smith has paid \$75 Million to DLA Piper but not one red cent to the victims.

1.5 The Smith Cartoon – Says It All About Compensation So Far



DLA Piper

Mmm! This is good!

Did you hear the victims and electors actually expect compensation? - The Poor Fools!

By the time we have finished, this Piggy Bank will be empty.

Pity about the victims eh!

2.0 Summary Dealing With Terms Of Reference

2.1 Current Mechanisms For Support – Unacceptable

The current mechanisms are clearly unacceptable.

In the case of the ex service personnel, you are:-

- Laughed at
- Not given help in a timely manner and
- Encouraged to commit suicide.

In the case of current service personnel, not only do you suffer from the same problems of ex service personnel but also by the issues of:-

- Confidentiality and
- The stigma of mental illness.

All conspiring to prevent the victim from seeking help in the first place.

2.2 Current Compensation Schemes - Worse Than Useless – New System Needed

2.2.1 Treatment

2.2.1.1 Ex Service Personnel

A national Advocacy Service should be established and federally funded. It should be based upon the existing ex service organisations.

It would be able to organise initial treatment and assistance with lodging a claim with the Department of Veterans Affairs.

It should have mandatory reporting with the identifying details of the victim removed of the abuse to:-

- Minister For Defence
- Chief Of Defence and
- This Committee

To ensure that:-

- The abuse is not just covered up as has been the practice in the past.
- The necessary corrective action to stamp it out is taken

2.2.1.2 Current Service Personnel

This is a lot more tricky because of competing issues.

Two star billet (i.e. Rear Admiral. Major General / Air Vice Marshal) should be created.

The occupant should be a medical officer with mental health background e.g. psychologist or psychiatrist. This would be in addition to other duties.

Defence is already approaching this conceptually the importance of Mental Health.

This Officer would be able to organise counselling and support and protect the victim.

There should be mandatory reporting with the identifying details of the victim removed of the abuse to:-

- Minister For Defence
- Chief Of Defence and
- This Committee

To ensure that:-

- The abuse is not just covered up as has been the practice in the past.
- The necessary corrective action to stamp it out is taken

2.2.2 Financial Compensation

2.2.2.1 Why Should The Victims Be Financially Compensated

The victims should be financially compensated for the following reasons:-

- The Crown and the Commonwealth owed to them a duty of care and was culpably negligent in not meeting its responsibilities.
- This obligation was enshrined in various Acts and Regulations
- The sexual and other abuse meted out was in defiance of those Acts and Regulations
- The torture and abuse was covered up by those who had a duty to prevent it and protect the victim.

I respectfully submit that the negligence and culpability of Defence has been appalling further harming the victims.

Why should we treat the victims of sexual and other abuse in the Defence Force any less than what we did for:-

- Speaker Leo McLeay and
- The convicted felons in prison?

It is time for right to be done,

2.2.2.2 General Remarks – Problems Of Current System

Typically this is the court system.

There the victim suffers from the following disadvantages that make it impractical and thus deny the victim any chance including :-

- Hurdles of producing corroborating evidence / misleading service records
- Cost
- Trauma of the proceeding
- Time Limits

A better system needs to be implemented.

2.2.2.3 – Key Elements Of New System

The key elements of the new system should include:-

- Be Ex Gratia
- Not be time limited
- Recognising the hurdles that the victims suffers from
- Recognise the trauma of the Victim and the very good reasons for delay
- The misleading nature of service records
- Not take into account any pension that they might receive from the Department Of Veterans Affairs for any admission of the claim by the Department Of Veterans Affairs
- Not affect any pension paid for by the Department Of Veterans Affairs
- Should take into account income foregone
- Not worry about any income that the victim has made in the interim

2.2.2.4 Ex Service Personnel – Compensation \$5M

As a starting point I have done a calculation on the income foregone as a result of the torture and abuse.

I reasonable figure would be \$5M at least base don officer pay rates.

I believe that enlisted personnel should be treated no less favourably.

Defence should pay for the following reasons:-

- They failed to enforce the Parliaments laws and the regulations
- They covered up, even to writing up suicides from the torture and abuse as “training accidents” for the “good of the Service and the families”
- Allowed the perpetrators to serve out the full time

That last point is perhaps the most important.

Defence:-

- Allowed the cruel perpetrators to have their full careers and receive their full pay and entitlements
- Actively covered up the crimes and promoted the torturers.
- Chose to ignore the express will of Parliament and the various discipline acts.

It is worth noting that those who perpetrated the abuse and torture were permitted to complete their careers – why should the victims receive anything less.

Why should we treat the victims of sexual and other abuse in the Defence Force any less than what we did for:-

- Speaker Leo McLeay and
- The convicted felons in prison?

2.2.2.5 Service Personnel – Compensation \$5M

I believe that current service personnel should be treated to the same level of compensation.

Furthermore:-

- It should be ex gratia and
- In addition to anything that the victim might receive from the Department Of Veterans Affairs

2.3 Current Government Reporting Scheme Ineffective

The current system of oversight is ineffective as evidenced by the recurring scandals at the Service Colleges and Australian Defence Force Academy.

Therefore changes ought to be made.

The recommendation for mandatory reporting to Chief Of Defence, Minister of Defence and this committee should go along way in addressing this matter.

2.4 Systemic Cultural And Issues In Reporting And Investigating Sexual And Other Abuse

The underlying issue is that it is, I submit is very much entrenched.

It requires aggressive and vigorous action to stamp it out.

It is also essential that we hold the Commanding Officers of Training Establishments fully accountable.

If it occurs, they should be transferred to the inactive list as well as all those beneath them.

Their replacements should be informed that they same will happen to them if it occurs again.

Only then will there be sufficient motivation to enforce the Discipline Act, Queens Regulations and Instructions etc.

2.5 Is Data Collection, Dissemination Of Abuse Adequately Maintained And Acted On?

No It Is Not.

There are better ways as documented elsewhere in this submission

3.0 Necessary Background Information

3.1 Qualifications Of Writer To Comment

- I served in the Navy From January 1983 to June 1985 as a Midshipman GLEX.
- My Official Number was O134408.
- During that time I was in the Navy, I was subjected to extreme bastardisation and still suffer badly from the effects of it
- It was so well known on the base, that one Chief Petty Officer offered to have the legs broken of those doing it.
- Senior Officers were aware of it. They were only prompted to action when it was reported to the Chaplain at Albatross and Navy Duty Officer Melbourne. Their actions were about protecting their careers not the victim.
- The cost of this practice to the tax payer is extreme
- I have set up a website to help the victims of torture and abuse in the Australian Defence Force www.adfabuse.com
- As a direct results of my own judgment at Veterans Review Board and meetings with senior management of the Department Of Veterans Affairs caused the setting up of a National Claims Centre in Melbourne for the Victims Of Bastardisation with sympathetic specialists understanding the problems facing the victims of Bastardisation in making claims.
As a result they are more likely to succeed with the making of such claims.

3.2 Torture Versus Bastardisation As A Term

In this submission I refer to Bastardisation as Torture and Abuse.

This is not cheap theatrics, but rather because the Federal Parliament tells us that I should refer to it as torture.

Under the International Convention On Torture, Article 1, which Australia has ratified, torture is defined as:-

1. For the purposes of this Convention, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, **or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.** It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

I respectfully submit that the highlighted section is on all fours with what was done to myself continuously over a two and half year period.

My fellow midshipmen who practiced the torture on me held Queen's Commission as Midshipmen and thus acted in official capacity of the Crown, albeit in defiance of the Naval Discipline Act as it then stood and Queen's Regulations and Instructions as they then stood

Those above me who practiced it and covered it up held Queen's Commission and thus acted in an Official Capacity, albeit in defiance of the Naval Discipline Act as it then stood and Queens Regulations and Instructions as they then stood.

Euphemisms are used to make an unpalatable reality more palatable.

We do not commit:-

- Murder - we terminate with extreme prejudice.
- Unlawful Acts – they are Black Ops
- Civilian Casualties – they are Collateral Damage
- Steal – we tickle the till or take five finger discounts
- Torture – we bastardise, we abuse

Bastardisation has connotations of temporary incidents designed to toughen you up with no permanent harm– it is not.

Finally in criminal law, torture is seen as a seriously aggravating factor which warrants an offender receiving a sentence in the extreme range.

In the workplace, we know have laws that we enforce against it such as Brodies Law.

Is it little wonder that those involved and those above them wish to cover it up?

It certainly explains the wilful blindness and acquiescence of those further up in the Chain Of Command.

3.3 The Victims Were And Are The Best Of The Best Of Australia

In 1983, when I joined the Naval College, there were over 8000 applicants from Australia for just 100 positions at the Naval College.

Those that made it had survived a gruelling medical, IQ, psychological and interview process.

We were the best of the best of Australia, determined by a Board of experienced Naval Officers and the Psychiatrist of the Navy that we had what it takes.

Whilst that number has declined, the current figures for the Australian Defence Force Academy are:-

Year	Number Of Applicants	ADFA First Year Positions Available
2011	1196	319
2012	1224	331

(Figures courtesy General Hurley, Chief Of Defence via Captain M. Hammond RAN, COS to CDF)

Given the exhaustive testing those that go through the Australian Defence Force Academy are still the best that Australia has to offer.

3.4 The Hurdles And Extreme Difficulties Faced By The Victim In Proving Their Claim

The victims of abuse be it torture or sexual face a number of difficulties unique from other victims.

These are as follows:-

3.4.1 Hurdle 1 - Actually Coming Forward

The reason why victims can take years to come forward are four fold:-

- The victims are made to feel as if they deserved and that its all their fault when it is not.
- We are ashamed and embarrassed by what has been done to us.
- Typically when torture has made front page news, it is rapidly buried and covered up. There has been no real attempt to make a real cultural change and address the issue.
- The difficulty of proving it as has been documented elsewhere in this submission.

As can be seen from the attached Statutory Declarations, the writer was subjected to over a sustained two and half years of sustained torture and abuse.

The damage done is serious and devastating leading to the victims becoming suicidal.

Given all the pressure placed to bear on Victims not to report it and the official culture of covering it up., it takes a lot of courage to come forward.

As a result the victim should be treated with great care and compassion and understanding.

Otherwise it makes a very difficult situation worse for the victim.

To tell a victim that it never happened because it is not in their service records, despite medical evidence to the contrary is to aid and abet what was done unlawfully to the victim.

We who have suffered it from it have been in effect disowned and left to fend for ourselves.

These days we have statutory jury direction in the various Crimes Act vis a vis rape which is on all fours with the torture practiced at the Service Colleges.

That Statutory Warning is:-

The Judge, "must inform the jury that there may be good reasons why a victim of a sexual assault may delay or hesitate in complaining about it;"

They also don't fully appreciate the damage that has been done to them, so being the best of the best, they try to keep limping on.

Also the current legal system likes to assign blame, but as can be seen below, naming and shaming the perpetrators can be well nigh impossible, further disadvantaging the victim.

3.4.2 Hurdle 2 - Circumstances Of Discharge / Extreme Difficulty In Proving The Abuse Took Place

Most will be discharge at own request.

This is because for two reasons:-

- It is sometimes the only way to get away from those practising the torture and abuse or
- They have been given the choice to resign or be discharged as the retention of their services is no longer in the interest of the service because of failing professional and academic performance.

Of course no acknowledgment is ever made that the declining / failing performance was due to the unlawful sexual abuse / torture and abuse inflicted on them.

As a result when they leave they really want to have nothing further to do with those:-

- Who practiced the abuse or
- Looked on and did nothing to help them

3.4.3 Hurdle 3 – Trying To Find Witnesses

As a result the first hurdle is being able to contact people who actually observed the torture and abuse and seek witness statements.

Since for the most part they don't have the contact details they can never get corroborating witness statements.

3.4.4 Hurdle 4 – Getting Witnesses To Give Statements For Fear Of Retribution

Even if the victim is able to find witnesses, quite often they are:-

- Still serving in the Military or
- Engaged in contracts with the Military.

Either way, my own direct experience has shown that both categories are loathe to provide statements documenting the abuse for fear of prejudicing their careers or contracts with Defence.

Either way the victim ends up with no corroboration.

3.4.5 Hurdle 5 - Service Records Hide The Abuse And Real Reason For Separation

The underlying problem with placing reliance on Service and Medical Records is as follows:-

- Permitting Torture and abuse is a breach of the Naval Discipline Act and its successors. It is also a breach of Queens Regulations And Instructions, as well as government policy.
- If a more senior officer has permitted it in their command, then if they were to write it up in the Victims Service Record, they would, in effect, admitting to a Court Martial Offence.
- Military Careers are carefully crafted things where the smallest misstep can be the kiss of death.

No Officer who has aspirations of Commander or higher is going to write up in the victim's service record an admission that they lost control of those under their command and in their care.

The same can be said of those of your peers who did it. They will not do it for two reasons:-

- The same as their seniors and
- They don't have access to your records.

Furthermore, as came out in *Jacomb V The Secretary for Veterans Affairs*, it is covered up by blaming the victim.

The official records will cite:-

- Poor Professional Performance
- Poor Academic Performance
- Personality issues
- Discipline Issues

as **the cause of termination** when they are in fact the **symptoms** of the unlawful torture and abuse.

Any perusal of the Witness Statements filed in *Jacomb V Secretary for Veterans Affairs* will show the abuse suffered.

This abuse would cause personality issues, performance problems for any one.

But by writing it up in this manner, those involved effectively cover up their guilty court martial conduct and blame the victim instead.

3.4.6 Hurdle 6 – Naming The Guilty – Bringing Them To Justice

It quite often takes a long time for the victims to come forward.

As a result it becomes almost impossible to name and shame the perpetrators and bring them to justice. because:-

- It is hard to remember them all, there were so many, furthermore, you don't want to remember those horrid times.
- It is a long time ago for the victim.
- By the time the victim does come forward, most of the torturers and abusers are out of Defence and training
- It is my experience that those who are most adept at denying the rights of others are the ones most adept and vocal on insisting on those same rights for themselves.

They would insist on a Longman Warning:-

“That the jury be warned that, because of the passage of a number of years, it would be ‘dangerous to convict’ on the complainant’s evidence alone unless the jury is satisfied of its truth and accuracy, having scrutinised the complainant’s evidence with great care.

The rationale for the warning is that a significant delay puts the accused at a forensic disadvantage because he or she has lost the ‘means of testing the complainant’s allegations which would have been open to him [or her] had there been no delay

The irony is that the delay arose as result of their own actions and the actions of those above them to discourage the complaint and to destroy / cover up evidence.

3.4.7 Hurdle 7 – Having Insufficient Time To Be Covered By The Veterans Affairs Act

In order to be fully covered by the Veterans' Affairs Act, the following criteria needs to be met:-

- Have served three years
- In the case of Officers under training have also achieved the rank of Sub Lieutenant
- Or in any other circumstances be medically discharged.

Since most victims end up resigning before the qualifying service requirement is met, they are initially left out in the cold by the Department Of Veterans Affairs.

Of course as a direct result of meetings I have had with senior management of the Department Of Veterans Affairs, they have now changed procedures to:-

- Give the victims a fairer go
- Set up a special national claims unit in Melbourne with a full understanding of:-
 - The hurdles that the victims face and
 - The application of the Whiteman Test (See **Paul Raymond Whiteman v Secretary, Department of Veterans Affairs** [1996] FCA 1786 (17 September 1996) and **Re Medcalf and Department of Veteran Affairs** (1991) 23 ALD 502)

3.5 What Is Torture And Abuse And Examples Of Torture And Abuse

Torture and Abuse are about:-

- Victimization,
- Ego and Power trips
- Brutality. and
- Pack mentality.

It is not about toughening up

It is also about unlawful discrimination. What is the essence of discrimination?

“This is the essence of discrimination: formulating opinions (and taking actions against) about others not based on their individual merits, but rather on their membership in a group with assumed characteristics.” Movie Philadelphia

Examples include:-

- Continued and sustained verbal harassment and abuse
- Physical abuse such as physical bashing and blanket bashing
- Being hunted by the abusers in fear of your safety and life ala The Fugitive and worse
- Having extra stress put on you by having your cabin regularly turned upside down and the stress of putting in back in order for the next inspection
- Being given extra duty, that no one else wanted that exposed you to dangerous chemicals that destroyed your lungs
- Ongoing public and unwarranted humiliation.
- The humiliation of sitting down to dinner in the mess and being the topic of conversation of those around you.

The list goes on and is wide and inventive. Those who perpetrate the abuse seem to take great delight in using their imagination to come up with new ways to humiliate you and cause you pain.

Iron Felix and his people at Lefortovo Prison would be proud of them.

I have attached as an annexure to this report a copy of my Statutory Declaration to Veterans Review Board on what I experienced.

3.6 What Is The Impact Of Torture And Abuse On The Victim

The impact on the victim is typically:-

- Post Traumatic Stress Disorder for which I am having ongoing psychological and psychiatric treatment. The symptoms of this are often debilitating, and include nightmares, flashbacks, hyper-alert state, anxiety and dissociation when exposed to triggers which remind me of the trauma I suffered.
- Ongoing difficulties and failure with studying
- Ongoing issues of feeling worthless
- Being suicidal
- Depression
- Anxiety attacks
- Mental breakdown
- Employment Difficulties
- Relationship Difficulties

It also had an adverse impact on families and friends who are legitimately very concerned about its impact on the victim.

3.7 What Is The Cost To The Taxpayer

I was told that in my first year my training cost the Tax Payer \$500,000 and went up to \$1,000,000 in my second and subsequent years.

The loss to the Australian Taxpayer as a result of Bastardisation is substantial.

I remember a friend who stayed in telling me that in the 90's the attrition due to Bastardisation at the Australian Defense Force Academy was 40%.

Assuming a typical class of 120 Midshipmen, this represents at least \$24 Million in 1983 Dollars as a minimum. In today's money that is \$65 Million using an average inflation rate of 3.8%. based upon the Reserve Bank's Inflation Calculator.

Multiply it by the years in between, 28, it is a minimum of **\$1.8 Billion lost** to Navy and the Taxpayer .

This would have allowed us to buy 18 of the Bay Class Landing Ship Docks rather than just one.

Then there is the ongoing cost to the Community with the damage done to its victims.

Then there is the cost of the continual inquiries into the torture which seem to effect no real change.

This alone, if we were to ignore the ethical and honour reasons for stamping out bastardisation, is sufficient grounds to stamping it out.

Those who have been doing it and those who have been allowing to continue and cover it up, have been bleeding the taxpayer white and failing in their fiduciary duties to the Crown and Treasury

3.8 Why It Continues Due To The Attitude Of Senior Officers

It continues because the Senior Officers then, as now, don't want to know about it.

I think it is best summed up by one Captain who assembled the college after one particularly cowardly and vicious attack on me.

Having lined the College up, he announced that no one would go on leave until the perpetrators came forward.

He then went to say:-

“He was not going to have his career affected by bastardisation.”

That is the problem.

It was not about that he would not tolerate any one under his command being treated in that manner but protecting his career – so long as that was protected, it was okay.

I have every reason to believe it is still the case today.

In fact the recent conduct of Senior Officers merely confirms it.

It is this wilful blindness and acquiescence of those further up in the Chain Of Command that permits it to continue.

4.0 Detailed Responses To Terms Of Reference

4.1 Current Mechanisms For Support - Unacceptable

4.1.1 Ex Service Personnel

This covers the vast majority of victims.

4.1.1.1 Current Procedure

The current mechanism as per the DLA Piper Information Sheet is as follows:-

“For former ADF members and former Defence public service employees and their immediate families:

Special arrangements have been made to extend the EAP service for immediate, initial counselling to former ADF members and former Defence public service employees and their immediate families who raise or have raised allegations affecting them with the external review team and who require counselling assistance. The EAP is a confidential and free service provided by professional counsellors.

This service can be accessed via the EAP hotline on 1800 451 138 and selecting Option 1 - Crisis Intervention.”

4.1.1.2 What Is Wrong With It

After doing submission to Minister Smith’s Inquiry, I rang this number.

- The first time I rang this number where I got the young man who laughed and thought it was a joke, it was 8 July 2011 at 1:00 PM
- The second time at the moment but it was on or prior to 2 August 2011..As mentioned on the phone I have had crying fits and I am now having more and days than good days. They said they could not help me for three months.
- I become more and more suicidal.
- When I complained to the Minister, I was contacted by one Carole Windley who was only interested in identifying the person who laughed at me and not the providing the treatment and support so desperately needed.
- My psychiatrist wrote to the Minister on 29th August 2011, begging for the support I needed. The Minister and his staff ignored it.
- Finally on 9th September 2011. I rang the Defence Minister’s Office desperately begging for help and encouraged me to commit suicide:-
 - Out of gratitude for all the minister had done for me and
 - Because it would be in every one’s best interest including my own.
- It was only when I threatened to go to the press, that they put me in touch with Commodore Wallace RAN and things started to get sorted out.

I respectfully submit that this is simply unacceptable and will not do.

4.1.2 Current Service Personnel

4.1.2.1 Current Procedure

The current mechanism as per the DLA Piper Information Sheet is as follows:-

“The All-hours Support Line (ASL) is a confidential telephone service to assist ADF members and their families with accessing mental health services, such as psychology, medical, social work, and chaplain services.
The ASL number is 1800 628 036.”

As I understand the matter, it ends up in the same area as I contacted.

4.1.2.2 What Is Wrong With It

Apart from the same criticisms as for Ex Service Personnel, there are additional issues:-

- There is always a stigma with regards mental illness.
- Whilst your medical records are sealed being withdrawn from class to see a medical person tends to stick out.
- It gives proof to the torturers that they are succeeding
- Humiliates the victim yet again
- Hinders their ability to pass exams and meet professional standards
- As it is only medical treatment, treats the symptom and not the problem i.e. the underlying torture and abuse.

Again I submit this is simply unacceptable and will not do

4.2 Current Compensation Schemes - Worse Than Useless – New System Needed

As detailed in the previous sections, the current systems for both treatment and support as well as compensation are clearly inadequate.

I submit that serious change is needed:-

4.2.1 Treatment

4.2.1.1 Ex Service Personnel

4.2.1.1.1 National Advocacy Service Needs To Be Created

A National advocacy service should be funded by the Federal Government based upon the existing Ex Service Organisations.

It needs to be at arms length from the Government to maintain independence and integrity.

The reasons why it needs to be based on Ex Service and Independantly funded are as follows:-

- People who have never been through the Military never truly understand the difference between stern discipline and bastardisation
- Speaking from direct experience the Victim will feel more comfortable talking to someone who understands the culture
- Given the hurdles of making a Department Of Veterans' Affairs Claim, the expertise required and supporting the Victim, it is asking too much of Volunteers and Service Organisations to do this un an unfunded basis.
- There is some previous examples of Government funding for the Support of Victims of other matters.
 - With the F111 Problem, the RAAF appointed three Warrant Officers to deal with the claims.

Whilst this was an excellent start, there will always be a suspicion that they were also tasked to discourage claims.

That is why such a funded advocacy service should be at arms length from Defence and the Department Of Veterans Affairs.

4.2.1.1.2 *Actions That Should Be Taken When A Victim Comes Forward By Advocacy Service*

- They should be able to ring one number and be immediately put in touch with someone like Mark Creamer, former head of the PTSD Centre
- This cost should be initially borne by defence.
- At the same time the victim should be assisted to make a claim with the Department Of Veterans' Affairs.
- Once the claim has been admitted, the cost and ongoing management should be borne by the Department of Veterans Affairs, otherwise Defence should still bear the cost.

It should have mandatory reporting with the identifying details of the victim removed of the abuse to:-

- Minister For Defence
- Chief Of Defence and
- This Committee

To ensure that:-

- The abuse is not just covered up as has been the practice in the past.
- The necessary corrective action to stamp it out is taken

4.2.1.2 Service Personnel

This is a lot more tricky because of competing issues.

The Services have clearly demonstrated their inability to:-

- Deal with Torture and abuse and
- Help the Victims

Yet the best interests of the Victim in terms of obtaining help and protecting their careers could best come from within the Services.

Therefore, it seems to me a two star billet (i.e. Rear Admiral. Major General / Air Vice Marshal) be created.

The occupant should be a medical officer with mental health background e.g. psychologist or psychiatrist.

This would be in addition to their other duties.

The Services are already approaching this point anyway with the recognition of the impact of modern warfare on Mental Health anyway. So the burden to Defence is minimal anyway.

This Officer would:-

- Be available 24/7
- Be able to use their rank and position to:-
 - Protect the victim and
 - Deal with the Officers in charge of the training establishments to immediately stop the torture and abuse
 - Be able to organise the necessary counselling and support for the victim
 - Protect the victims' career.

There should be mandatory reporting with the identifying details of the victim removed of the abuse to:-

- Minister For Defence
- Chief Of Defence and
- This Committee

To ensure that:-

- The abuse is not just covered up as has been the practice in the past.
- The necessary corrective action to stamp it out is taken

4.2.2 Financial Compensation

4.2.2.1 Why Should The Victims Be Financially Compensated

The victims should be financially compensated for the following reasons:-

- The Crown and the Commonwealth owed to them a duty of care.
- This care derives in part from the common law.
- This duty of care is specifically recognised in:-
 - The Defence Force Discipline Act and its predecessor Acts
 - The various Queens Regulations And Instructions
 - Policies Of Defence
 - Ships Standing Orders and
 - Captains Standing Orders
 - Stated Federal Government Policy
- What was done to the victims, was in defiance of the previous references as well as:-
 - The various statutes of the Federal Parliament
 - The ratified International Convention of Torture and Abuse
- The torture and abuse was covered up by those who had a duty to prevent it and protect the victim.

Much has been made of the culpability of the Catholic Church and others re child abuse so much that there are Parliamentary Inquiries in Victoria and the setting up of a Federal Royal Commission.

I respectfully submit that the culpability of Defence is no less.

It is a well recognised principle in law that when you are wronged in defiance of the law, you are entitled to compensation.

Delay in compensation is always a factor in increasing the compensation.

Why should we treat the victims of sexual and other abuse in the Defence Force any less than what we did for:-

- Speaker Leo McLeay and
- The convicted felons in prison?

The victims have suffered so much already.

Their abusers and those who looked on and did nothing were allowed their compensation through completing their carers.

Why should the victims receive anything less?

4.2.2.2 General Remarks – Problems With Current Mechanisms

The currently available systems for compensation are either non-existent or too expensive and complicated for victims to access e.g. the common law system and the courts.

There the victim suffers from the following disadvantages that make it impractical and thus deny the victim any chance.

These disadvantages are:-

- Hurdles of producing corroborating evidence
- The misleading nature of service records.
- The very good reasons for delays in coming forward
- The consequence of being statute barred
- The distress that coming forward causes the victim.
- The generally tight financial circumstances the victim is in because of the abuse and the difficulty of litigation funding.

The real disincentive of having costs awarded against them

Further given the way the Federal Government has handled the compensation for the Voyager Victims, deliberately delaying proceedings in the hope that the victims will die or go away, not a good option.

A better system needs to be implemented.

4.2.2.3 Key Elements Of New System

The key elements of the new system should include:-

- Be Ex Gratia
- Not be time limited
- Recognising the hurdles that the victims suffers from
- Recognise the trauma of the Victim and the very good reasons for delay
- The misleading nature of service records
- Not take into account any pension that they might receive from the Department Of Veterans Affairs for any admission of the claim by the Department Of Veterans Affairs
- Not affect any pension paid for by the Department Of Veterans Affairs
- Should take into account income foregone
- Not worry about any income that the victim has made in the interim
 - If the abuse has been recognised by the Department Of Veterans' Affairs, it should be automatically admitted under the ex gratia scheme.

4.2.3 What Should The Compensation Be?

4.2.3.1 Ex Service Personnel

How do we put a fair price on compensation?

I think that the a good starting point is as follows:-

- Support through DVA for treatment and pension
- Compensation from Defence for Income Lost
- Compensation from Defence for Pain And Suffering

I have accessed the current pay rates and have done some calculations (See Annexure)

At a bare minimum it should be **\$3,742,459.69**

A fairer figure would be : **\$4,240,575.91** (say \$5M)

This figures include:-

- Salary Foregone
- Service Allowance Foregone
- Sea Going Allowance Foregone
- Superannuation Foregone

They do not include:-

- Additional payments for specialist skills or
- The revenue that the victim would have received as a defence contractor after retirement – typically \$100,000 per year.

Of course we all cringe at the liability for the Commonwealth, but consider this:-

- Why should the victims receive anything less than what Defence chose to reward their cruel and criminal Torturers with?
- The Victims have had their lives wrecked, some are in and out of Mental Health Facilities on a regular basis.
- Furthermore, the concept that the victims should get anything less from Defence than what Defence paid the criminals (and yes it they were and are criminals) who tortured and abused them is on the same level as saying that people like Carl Williams and Tony Mockbel should keep the proceeds of their crimes and their victims get nothing!

Also it should be the same for whether the victim went to ADFA or Recruit School.

Just because the Victim went to Recruit School, they should not be treated any less favourably.

4.2.3.1.1 Aggravating Matters - Why Should Defence Pay Compensation? - \$5M

Defence should pay for the following reasons:-

- They failed to enforce the Parliaments laws and the regulations
- They covered up, even to writing up suicides from the torture and abuse as “training accidents” for the “good of the Service and the families”
- Allowed the perpetrators to serve out the full time

That last point is perhaps the most important.

Defence:-

- Allowed the cruel perpetrators to have their full careers and receive their full pay and entitlements
- Actively covered up the crimes and promoted the torturers.
- Chose to ignore the express will of Parliament and the various discipline acts.

Why should the victims receive anything less than what Defence chose to reward the cruel Torturers with?

Income Foregone

Before going through the calculation it is worth saying that by the covering up by more senior officers, the torturers and abusers were allowed to complete their careers and collect at the bare minimum the income foregone.

Bare Minimum Figure : **\$3,742,459.69**

More Realistic Figure : **\$4,675,876.19**

Pain And Suffering

For any ex gratia scheme I would suggest would be \$20,000.

If the GARP M Tables were utilised then there should be a sliding scale with more severely injured persons being paid more in compensation for their functional loss and the impact on their lives. It would be impossible to approach it as a one size fits all. Each case would be unique and compensation assessed according to the circumstances.

4.2.3.2 Service Personnel

I think that this should be the same.

4.3 Current Government Reporting Scheme Ineffective

The current system of oversight is ineffective as evidenced by the recurring scandals at the Service Colleges and Australian Defence Force Academy.

Therefore changes ought to be made.

The recommendation for mandatory reporting to Chief Of Defence, Minister of Defence and this committee should go along way in addressing this matter.

4.4 Systemic Cultural And Issues In Reporting And Investigating Sexual And Other Abuse

The remarks in the background information are relevant

Senior Officers must be held accountable and given incentive to stamp out this practice for the benefit of:-

- The Victim
- The Service and
- The Taxpayer.

It would be instructive to look at the case of Commodore Kafer, Commandant ADFA.

4.4.1 The More Senior You Are The Less Accountable You Are

As a young Midshipmen I personally observed and then had it confirmed by friends who remained in later on, that once you reached the rank of Captain or above you could do no wrong.

The same behaviour is repeated in civilian life. Do something wrong at a lower level you feel the full weight of the law. However, as you go up the food chain, the penalty for the same misconduct gets lighter and lighter until its nothing at all.

We all remember the cover up of the first Voyager Inquiry and the that the truth only came out with the second Inquiry regarding Commanding Officer Voyager.

4.4.2 Doubts About Kirkham Inquiry

Sure there was an inquiry by a distinguished Barrister, Andrew J Kirkham AM RFD QC of the Gordon & Jackson List.

However, Mr Kirkham used to be a Deputy Judge Advocate General of the Air Force. This job carries with it the rank of Air Commodore.

On 26 January 2006, he received his AM for “For exceptional service in the field of military law, particularly as the Deputy Judge Advocate General (Air Force).”

It makes him part of the club.

Having Mr Kirkham (Who held the rank of Air Commodore) investigating Commodore Kafer is like having the police investigating the police.

No matter how well or otherwise he does his job, the outcome will always be and is tainted by that fact.

Had this been a judicial proceeding i.e. court proceeding he would have been forced to step down under the decision of the High Court in *British American Tobacco Australia Services Limited v Laurie* [2011] HCA 29 February 2011 S138/2010.

This judgment contains the perception of bias test.

The test is whether in the mind of a lay person, having no knowledge of the law, might apprehend that bias might exist.”

It is not essential to prove bias but rather the apprehension that bias might exist.

Of course it can be argued that the bias test is less when applied to Inquiries and Royal Commissions, see *Firman v Lasry* [2000] VSC 240 (9 June 2000).

But even there, the test is as per paragraph 16

“The test of apprehended bias is this: are the circumstances such that a party or a fair-minded and informed member of the public might entertain a reasonable apprehension that the decision-maker might not bring an impartial and unprejudiced mind to the resolution of the issues before him (or her)”

Either way, it would seem clearly in this case, that apprehension of bias does exist and taints the Kirkham Report.

Given the great public debate, controversy and interest in this matter, I believe that Mr Kirkham should have never done the inquiry. No matter how hard he tries it will always seem tainted regardless.

Someone who was clearly independent should have done it to ensure that the public could have full unquestioned confidence in the outcomes.

As was said in paragraph 34 of the previously cited Tobacco case:-

"judges, like Caesar's wife, should be above suspicion".

I say as an elector and victim, that I believe the same standard should have applied to this inquiry and that we should all raise it with the Parliament.

Further, the failure to publicly release of the report taints it further.

Secret Justice is no justice at all and is a direct attack I believe on the ability of electors and the Parliament to ensure accountability or lobby for change where required.

Also it seems to me that the wrong questions were asked in the Kirkham Inquiry.

Had they been, a different outcome would have been achieved.

4.4.3 What Should Have Been Asked Of Commodore Kafer

Below are the questions I would have asked and the answers I am sure would have applied.

- Commodore Kafer, at the relevant time in question, were you Commanding Officer of the Australian Defence Force Academy? **Yes**
- Commodore Kafer, did you have a responsibility in law under the relevant Discipline Act, Queens Regulations and Instructions to maintain good order and discipline in accordance with that Act and those Instructions? **Yes**
- Commodore Kafer, did these incidents represent a major and gross violation of that Act and those regulations? **Yes**
- Commodore Kafer, such behavior represents a major rejection of Defence Values and “culture” does it not? **Yes**
- Commodore Kafer, In fact does it not demonstrate that a disturbing culture exists within the Australian Defence Force Academy? **Yes**
- Commodore Kafer, were you in command at the relevant time? **Yes**
- Commodore Kafer, then ultimately you were responsible? **Yes**

He should have been dismissed and all of those in the chain of command under him replaced with new officers.

They should have had it made clear to them that torture and abuse will not be tolerated, and if they don't stamp it out, they too will be dismissed.

The great thing about Military Officers is that they are servants of the crown and not employees.

The case law means that they can't sue for wrongful dismissal.

The incoming officers would now have the necessary motivation to stamp it out.

If the senior leaders of the Australian Defence Force won't take responsibility, why should junior officers and other ranks take responsibility?

As an elector and victim, for me that is the question that should be debated.

When You Are In Command, You Are In Command

Furthermore, when I was a young Midshipman, I was taught that when you are in command you are in command.

You may be the Captain of a ship, which runs aground whilst you are asleep because the Officer of The Watch behaved irresponsibly.

It doesn't matter.

You were in command and your responsibility was to ensure that this never happened – you are responsible and must accept the consequences.

Another good example is what happened to a friend of mine.

He took a group of officers and sailors from HMAS Creswell to play water polo at a base in Sydney.

As was often the practice, they put a slab of beer on the Bedford bus with them and drank it on the way to Sydney.

The driver did not drink.

They were not drunk.

But because the Captain of the base he was going to took exception, he was gigged because he was the senior and thus in command.

End of career.

Most unfair.

If he was gigged for that trivial matter, why wasn't Commodore Kafer and those down in the Chain Of Command also gigged for this much more serious incident.

4.4.4 The Lesson Of Admiral Byng

We seem to have forgotten what Voltaire said about Admiral Byng –

“Dans ce pays-ci, il est bon de tuer de temps en temps un amiral pour encourager les autres “

Loosely translated It means

“ In this country, it is good to kill an admiral from time to time, in order to encourage the others”

the historians tell us that the execution of Admiral Byng led to a direct improvement of British Sea Officers.

Of course I am not arguing physical death for those involved in sexual abuse and torture and abuse.

However. Career death would achieve the desired result.

The Parliament, Crown and Government must make it clear that this behaviour will not be tolerated.

Had Commodore Kafer been properly gigged and those in the chain of command under him, I have no doubt that their replacements would take their responsibilities vis a vis torture and abuse more seriously and make sure that it didn't take place rather than offering excuses.

The issue in dealing with torture and abuse, is as always, enforcement not new policies.

4.5 Is Data Collection, Dissemination Of Abuse Adequately Maintained And Acted On?

No It Is Not.

There are better ways, as indicated in this submission elsewhere

Annexure A – Redacted Copy Of Writers Statutory Declaration To Veterans Review Board

Commonwealth of Australia
STATUTORY DECLARATION
Statutory Declarations Act 1959

¹ Insert the name, address and occupation of person making the declaration

I, William Robert (Jennifer Belinda) Jacomb, of 2 Burnell Street, WEST BRUNSWICK, COMPUTER ENGINEER,

make the following declaration under the *Statutory Declarations Act 1959*:

² Set out matter declared to in numbered paragraphs

1. I was served in the Royal Australian Navy from 14th January 1983 until 19th January 1985.
2. During that period I held the rank of Midshipman.
3. I was very proud to have joined given the Naval Heritage in my family and the high criteria of the Selection Tests that had to be met in order to join.
4. I was committed and resolved to succeed:-
 - a. I was the 5th person of my year to complete my New Entry Task Book.
 - b. At one point, I was the only Midshipmen trusted to write Local Skipper Tickets.
 - c. I served as Bar Manager of the Gunroom and commissioned renovations that still exist to this day.
 - d. I founded the War Gaming Club
5. There can be no doubt of my suitability to be a Naval Officer given my passing of Selection and the things I achieved despite the Torture and Abuse.
6. Throughout my period of service, I was continually subjected to torture, both Mental and physical abuse.
7. It started from the very moment I joined and continued almost to the day I left.
8. It was perpetrated by my peers, some of the more senior midshipmen and officers up to and including the rank of Lieutenant Commander.
9. This bastardisation included but was not limited to:-
 - a. Continued Verbal Abuse and harassment by peers and more senior midshipmen and Officers
 - b. Being continually interfered with on buses when being transported by Naval Transport
 - c. Being imprisoned in my cabin by having a twenty cent piece jammed in the door jamb so it could not be opened.
 - d. Subjected to having the wooden skylight above my door smashed in. One time the repair work was delayed for over two months. The reason why this was done is that as a protective measure I had started to lock my door whilst I was in my cabin. By destroying the skylight, it defeated my protective measures and they could still get in.

William Robert (Jennifer Belinda) Jacomb 

- e. Excessive punishments
- f. Regularly having my cabin broken into and trashed.
- g. During my third week I was detached from my Division and then instructed to rejoin it at the Waterfront for boat work.
 - I. When I rejoined it, the new Auxiliary Work Boat was out from the wharf three metres and the tide was out by about two.
 - II. I was then ordered in no uncertain terms to jump onto the Work Boat.
 - III. When I hesitated the order was repeated and as a result, I jumped and nearly died by nearly impaling myself on the Anchor Light ast the front of the work boat.
 - IV. Afterwards I discovered that the order came from one of my peers who thought it would be funny.
- h. Again early on (about the fourth week), I again nearly died when I was made to jump from the casing of an Oberon Class submarine to a 33" Sea Boat when it was clearly unsafe.
 - I. I fell between the casing of the boat and the hull of the sea boat was nearly crushed between the two.
 - II. I only just managed to survive by grabbing the bow rope as a fell.
 - III. When I got back to the base the reality hit me and I started to fall apart.
 - IV. No counselling or support was ever provided
- i. On one occasion. Trafalgar Night 1984, had by cabin broken into and destroyed., I could not cope with what had been done. As a result I went on leave

The next day when I came back to the base to deal with the mess. I discovered that those involved were cleaning up my cabin under the supervision of the Divisional Midshipman and Divisional Officer. I was informed that they had thought I committed suicide.

They were not cleaning up because the Divisional Officer was angry at what they had done to me or had any regret.

The only reason they were cleaning up was to remove any evidence of what they thought had lead to my suicide and thus mislead any official inquiry.

- j. Repeatedly being bashed and blanket bashed.
- k. Shaving cream bombs thrown into my cabin whilst I was inside.
- l. On at least two occasions being hunted around the base.
- m. On the first occasion:-
 - I. I was hunted around the base by about six individuals and my only way of escape was to wade in uniform from the Seaman's Beach to the Waterfront.
 - II. Once there I rang Fr O'Connor in terror from the Slipway.
 - III. My Divisional Officer's attitude was that it was okay and no record was

William Robert (Fenah Belata) [Signature]

made of it nor action taken against the perpetrators..

- n. On the second occasion, the College was due to leave early on a Friday at 12:00PM. On the preceding night I was severely tortured and abused. The abuse was so bad that:-
- I. The Captain of the College fell in all midshipmen on the Quarterdeck and would allow none to proceed on leave until the perpetrators came forward
 - II. From memory the perpetrators were given 14 days Slack Party
 - III. Apart from this there was no Official Record of the Incident.
 - IV. Nor was there any professional counselling or help to me to deal with the trauma.
 - V. Indeed the Trauma was made worse by the attitude of the Captain of the College. When he fell the College in he made it clear that the issue was not the abuse but rather "I am not going to have my career affected by Bastardisation" This just made the trauma worse.
- o. On Sea Train 1983 I suffered a scalding injury from the Hot Water Urn in the Crews Mess. The Executive Officer humiliated me, required me to do duties notwithstanding duties gravely aggravated the injury and then delayed medical treatment
- p. Later on I was further used for the entertainment of the Executive Officer whose Medical Treatment for a wound was not to dress it correctly but rather place a condom on it and humiliate me
- q. On Training Cruise 1985, I was subjected abuse and humiliated by the Training Officer, LCDR Nelson. This included verbal abuse, assigning more duties in an effort to break me.
- r. I remember one 24 hour period where he assigned two visual pilotages and one blind pilotage. In the same time frame, most of the other midshipmen only had one visual. Three individuals had a visual and a blind.

To give an idea of the impact, at the time in question it took 7 - 8 hours to prepare a visual and 3- 4 for a blind.

I still have the pilotage books that I had to prepare.

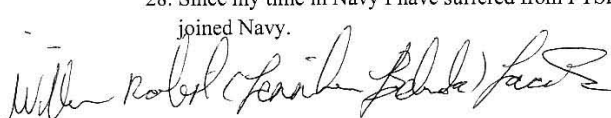
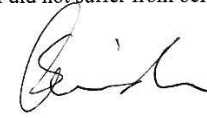
10. The abuse was so bad and so well known, that one senior Chief Petty Officer, made the offer that if I gave him \$20.00 he would get two junior sailors to break some legs for me. I was tempted but I refused as two wrongs make a right..
11. On at least two occasions my father rang the Naval Duty Officer Melbourne to express concern about the torture and abuse being inflicted on me.
12. On both occasions I was told in no uncertain terms to stop my Father ringing.
13. I was actively discouraged and prevented from making complaints or seeking help for

William Robert Francis Reynolds *Rich*

the growing trauma.

14. I remember once being very ill and going down to Sick Bay. All I wanted was a light duties certificate so I would not have to do Gym.
15. Instead I was turned in. Then after I recovered I was abused by the Doctor, Lieutenant Bower for getting ill in the first place.
16. The message was loud and clear if you are ill, they really didn't want to know.
17. The overall impact of the above was to make me jumpy, more and more unhappy and depressed, adversely affect my health and less and less able to perform my duties and pass her courses. This was reflected in her performance appraisals and academic results.
18. I would go on week end leave and sleep for up to 40 hours so drained was I from the torture and abuse, it seemed the only way to survive it.
19. At the time in question, there was a culture encouraging both:-
 - a. The carrying out of that Torture and Abuse and
 - b. Covering it up.
20. There is no record of it in the service files as now one was going to admit to Court Martial Charges for breaches of the Naval Discipline Act (as it then was) and Queens Regulations And Instructions for admitting to:-
 - a. Engaging in that torture and abuse or
 - b. Permitting it under their command.
21. As for my fellow midshipmen, they didn't have access to the records, and even if they did, would not document it for the same reasons.
22. As for the victims we were actively discouraged from complaining.
23. During the relevant time in question, there was no real support for PTS or education, effectively denying me proper and effective treatment.
24. As a direct result by the time of completion of training cruise, my performance had so degraded I was given the choice of forcible discharge or discharge at own request.
25. Like Medcalfe I chose the option which was more favourable to me.
26. Because of the culture and the pervasive nature of the abuse of torture and abuse I was denied treatment and not given the option of a medical discharge that I should have been.
27. Furthermore, I was never given any training or information about PTSD.

Nor was I encouraged or indeed allowed to seek help at any point during my time in the Navy, especially as documented by the behaviour of Lieutenant Bowman.
28. Since my time in Navy I have suffered from PTSD which I did not suffer from before I joined Navy.

29. This includes but not limited to:-

- a. Post Traumatic Stress Disorder for which I am having ongoing psychological and psychiatric treatment. The symptoms of this are often debilitating, and include nightmares, flashbacks, hyper-alert state, anxiety and dissociation when exposed to triggers which remind me of the trauma I suffered.
 - b. If I hear a noise when not expecting it as I am dozing I wake up screaming. I remember when occasion when I was sleeping on a yacht and when the rest of the crew came back and disturbed I woke up yelling so much that I thought I was being attacked.
 - c. This has been an ongoing problem and today even the noise of the air conditioner compressor starting up whilst I am dozing causes me to wake up in terror.
 - d. Ongoing difficulties and failure with studying
 - e. Ongoing issues of feeling worthless
 - f. Being suicidal
 - g. Nightmares
 - h. Flashbacks
 - i. Depression
 - j. Anxiety attacks
 - k. Later on, after leaving it caused a
 - l. Mental breakdown
 - m. Employment Difficulties
 - n. Relationship Difficulties
 - o. Permanent damage to my lungs
30. There have been other incidents that have exacerbated the PTSD but the underlying injury was caused in Navy and caused my discharge.
31. Last year the Minister for Defence invited submissions to his inquiry into bastardisation.
32. I made submission and as a result started having very unpleasant flashbacks and nightmares.
33. These flashbacks included reliving the abuse I suffered as well as nightmares including one of being raped at the college.
34. Whilst I don't believe this was the case, the flashbacks and nightmares drove me to the brink of suicide. This lead the Ministry's staff routing me to Captain Duncan Wallace RAN, Chief Psychiatrist of the Navy who in turn routed me to Dr Mark Creamer, the former head of the PTSD Centre for treatment
35. Early on after leaving Navy I sought medical help not realising the problem for what it was at my own private expense.
36. I have suffered continuously from this PTSD and in latter years my lungs have degraded due to beryllium exposure.



37. Whilst there have been incidents that have exacerbated the PTSD the PTSD created by the torture and abuse in the Navy has always been the underlying problem.

I understand that a person who intentionally makes a false statement in a statutory declaration is guilty of an offence under section 11 of the *Statutory Declarations Act 1959*, and I believe that the statements in this declaration are true in every particular.

3 Signature of person making the declaration

3 William Robert (Frank) Belinda Jaco

4 Place
5 Day
6 Month and year

Declared at ⁴ Melbourne on ⁵ 14th of ⁶ March 2012

7 Signature of person before whom the declaration is made (see over)

Before me, 

8 Full name, qualification and address of person before whom the declaration is made (in printed letters)

8 **Stephen Lindner** LL.M.
Barrister
Flagstaff Chambers
557 Little Lonsdale St Melbourne 3000

Note 1 A person who intentionally makes a false statement in a statutory declaration is guilty of an offence, the punishment for which is imprisonment for a term of 4 years — see section 11 of the *Statutory Declarations Act 1959*.

Note 2 Chapter 2 of the *Criminal Code* applies to all offences against the *Statutory Declarations Act 1959* — see section 5A of the *Statutory Declarations Act 1959*.

Annexure B – Copy Of Redacted Decision Of Writer At Veterans' Review Board



VETERANS' REVIEW BOARD

DECISION AND REASONS

VRB N^o: V12/0011
DVA N^o: VSM17403

Applicant: Jennifer Belinda Jacomb (formerly William Robert Jacomb)

Decision under review:

The Repatriation Commission decision dated 20 December 2011 that the applicant was not entitled to claim a pension as she was not a 'member of the forces' as defined in the *Veterans' Entitlements Act 1986*.

Hearing by Board:

Heard: Melbourne on 20 April 2012

Before: C C H Wray Senior Member
R T Regan Services Member
J M Moir Member

Appearances: Ms J B Jacomb, the applicant;
Mr J Jackson of RSL Melbourne, advocate;
Ms I Georgakakis and Mr C Driver, friends of the applicant.

Decision of the Board:

On 20 April 2012 the Veterans' Review Board decided to:

- **SET ASIDE** the decision under review in relation to the applicant's entitlement to claim a pension and substitute its decision that the applicant was a 'member of the forces' as defined in the *Veterans' Entitlements Act 1986*.
- **REMIT** the matter to the Repatriation Commission for further consideration of the applicant's claim for medical treatment and pension for the claimed conditions.

REASONS FOR DECISION

HISTORY OF APPLICATION

1. Jennifer Belinda Jacomb, formerly William Robert Jacomb (the applicant) has applied for review of a Repatriation Commission decision dated 20 December 2011 which refused a claim for medical treatment and pension for incapacity from mental health issues and lung problems on the ground that the applicant was not entitled to claim a pension as she was not a 'member of the forces' as defined in the *Veterans' Entitlements Act 1986* ('the Act').
2. The application for review by the Veterans' Review Board was received by the Department of Veterans' Affairs (the Department) on 6 January 2012 and is to be decided under the provisions of the *Veterans' Entitlements Act 1986* (the Act).
3. The Board notes that the applicant has undergone a gender reassignment and was a male at the time she attended the Naval Officer Training School, HMAS *Cresswell*. However for consistency, and recognising the applicant's gender identification, the applicant is described as 'she' in these Reasons.

ATTENDANCE

4. The applicant attended the hearing and gave evidence. She was accompanied by her friends, Ms I Georgakakis and Mr C Driver. She was represented by Mr J Jackson of Returned and Services League, Melbourne. There was no appearance on behalf of the Repatriation Commission.

DOCUMENTS BEFORE BOARD

5. In conducting the review the Board had available to it the Departmental Report under section 137 of the Act prepared for this application, the Departmental files (marked MSM and numbered 17403) and the Board file in the matter.
6. At the hearing the applicant provided the Board with further copies of submissions and supporting material in paper form and as a CD. These have been placed on the Board file. The Board notes that this material was largely similar to that provided by the applicant in support of the claim which is on the Departmental Report.
7. The applicant also, subsequent to the hearing, provided the Board with a copy of the decision in *Briginshaw v Briginshaw* [1938] HCA 34, (1938) CLR 33. That has also been placed on the Board file.

8. Unless otherwise stated, references to folios are to the relevant folio of the Departmental Report.

SERVICE HISTORY

9. The applicant served in the Royal Australian Navy from 14 January 1983 to 19 June 1985 all this period constitutes defence service as defined in the Act.

10. The period of service is shorter than that required before an applicant can be considered a 'member of the forces' for the purposes of the Act, and thus be eligible for the benefits provided to serving or former members of the forces under the Act, and the question of the applicant's eligibility under the Act is the subject of this proceeding. This is discussed in detail below in these Reasons.

APPLICANT'S CASE

Submissions by advocate

11. Mr Jackson, on behalf of the applicant told the Board that he had assisted the applicant in lodging the claim. The applicant had come forward following the controversy about sexual harassment at the Australian Defence Force Academy (ADFA) in 2011. The applicant had made submissions to the enquiry on harassment that followed the ADFA incident.

12. Mr Jackson commented that the records on the Departmental report stated that applicant had been discharged 'at his own request'. As the applicant had been discharged before serving 3 years and the discharge was not stated as being for medical reasons as required under section 69 (1) (c) of the Act, the Repatriation Commission had decided that she was not eligible to claim under the Act.

13. However he submitted that one had to look behind the words of the Act to the reality of the applicant's situation. The applicant's records indicated that the applicant had experienced problems settling into life at the Naval College, HMAS *Creswell*. The applicant had been anxious, experienced substantial stress in trying to keep up with the studies and had experienced bullying and abuse from other cadets from the outset.

14. Mr Jackson referred to the statutory declaration of Father David O'Connor (folio 168-9) which provided evidence of the problems experienced by the applicant. He stated that Father O'Connor had telephoned the Divisional Officer to try to stop the bullying of the applicant, but nothing had come of this approach. Mr Jackson also referred to the statutory declarations of Mr D Byrne (folios 155-7) and [REDACTED] as providing evidence in support of the applicant's allegations.

15. Mr Jackson submitted that there were legal decisions which required the Board to look behind the formal reasons for the applicant's discharge and to ascertain the real reasons. In this case, as a result of the ongoing abuse at HMAS *Cresswell* and the effect that it was having on the applicant's health, particularly her mental health, she had no other course open but to leave the Navy so as to bring the abuse to an end. Dr Waddell, consultant psychiatrist, in his report dated 27 August 2008 opined that it was likely that the applicant had PTSD that stemmed from the bastardisation at *Cresswell* (folio 37).

The applicant's evidence

16. The applicant, as previously stated in these Reasons, provided the Board with written submissions and copies of supporting documents, including the statutory declarations referred to in paragraph 13 above. Most of these documents were already on the Departmental Report, and the submissions and other documents have been placed on the Board File.

17. The applicant addressed the Board in relation to matters arising out of her written submissions. The applicant stated that she received sustained and continuous ill treatment at the hands of other cadets at HMAS *Cresswell*, and she argued that the harassment and bullying that she had experienced constituted 'torture' according to the International Convention on Torture.

18. The applicant said that while at *Cresswell* she had been unable to study as a result of the sustained harassment and bullying. She referred to incidents where a shaving cream 'bomb' would be thrown into her room by other cadets at night and she would then have to spend the night cleaning up the mess, and would not be able to get sleep as a result. She said this happened on a number of occasions, as well as the bullying and harassment set out in her statutory declaration (folios 161-166).

19. With regard to the symptoms of post traumatic stress disorder (PTSD), the applicant told the Board that she knew at the time she was discharged that *something was wrong, but I did not know what*. At that time, in the early 1980s, there was not much discussion about PTSD. After she returned to civilian life she was depressed and sad and stayed home doing nothing until her mother told her to get work, or get out. During that period she did not have the energy or inclination to see her local medical officer. Later she used the Naval health service which assisted.

20. The applicant referred to one incident when she was camping with a group and fell asleep; when someone touched her to wake her she woke up screaming. She said that this was a result of her experiences at HMAS *Cresswell*.

BOARD'S DETERMINATION

21. In this case, the applicant was discharged from HMAS *Cresswell* on 19 June 1985 after serving there from 14 January 1983, a period of two years and 156 days. The veteran's record indicates that she was discharged at her own request, however this followed a Review Board in early May 1985 which concluded that the applicant *had trouble mixing, had failed some components* [of the course] *and should not continue Officer training*. On 3 May 1985 after meeting the Commanding Officer of the school, the applicant took the option of resigning from the course (folio 36). This became effective on 19 June 1985.

22. The question is whether the applicant is a member of the forces for the purposes of the Act, as she did not serve for the minimum period of three years (with certain exceptions) required by the Act. The relevant section is section 69 (1) (d) which applies to deem a person a member of the forces:

69. (1) (d) *if;*

(i) the person has served as a member of the Defence Force under an engagement to serve for a period of continuous full-time service of not less than 3 years; and

(ii) the person's service as such a member was terminated before the person had completed 3 years' effective full-time service as a member of the Defence Force, but after 6 December 1972, by reason of the person's death or the person's discharge on the ground of invalidity or physical or mental incapacity to perform duties.

23. The applicant's contention is that her discharge was the consequence of a then undiagnosed PTSD that was the consequence of the bullying and harassment that she experienced at the hands of fellow cadets, and that the Board should look behind the formal reasons for the discharge and make findings as to the real reason why the discharge occurred.

24. The Board notes that the question of whether or not a tribunal or court can look behind the record has been considered in a number of cases. In *Gransbury v Repatriation Commission* (1993) 29 ALD 877, the AAT considered the case of a soldier discharged as 'not suitable to be a soldier'. It found that it was not entitled to go behind the record and consider whether the real reason for the discharge was a psychiatric condition. This view was supported by the AAT in its decision in *Graham v Repatriation Commission* (1996) 41 ALD 448. There the AAT stated at p.453 that:

Courts and Tribunals function because of powers given, not in the absence of powers. I know of no authority which permits this tribunal to substitute a reason for the applicant's discharge which differs from the reason given ... I can find nothing in the AAT Act, The Veterans Entitlements Act or the

Naval Defence Act which empowers the tribunal to substitute the reason for discharge.

25. However this line of reasoning was considered by Madgwick J of the Federal Court in *Whiteman v Secretary, Department of Veterans' Affairs* (1996) FCA 1786. This case related to a claim for eligibility under the Defence Service Homes Act (DSHA) by a former soldier who had been injured during service, and who, finding little scope for future employment in the Army had applied for a discharge before his period of eligibility for a defence service home loan had been reached. The question before the Court was whether the applicant had been discharged *on the ground of incapacity to perform duties*, when his formal discharge documents stated otherwise.

26. Madgwick J. considered *Graham's Case*, but concluded that *the Tribunal had over emphasised the notions of 'powers given' to the primary decision-maker and 'substitution' of the AAT's views therefore. This seems to have led to a misunderstanding of the legislation.* He noted that: *The decision-maker's determination of the grounds of discharge for the purposes of the benefits legislation need have no effect at all on the military's procedures, determinations or records.* The court noted that it was dealing with beneficial legislation which should be construed beneficially in favour of the applicant, *as it has often been pointed out that it is a matter of great public importance to provide adequately for incapacitated ex-servicemen.* The court concluded that the form and content of the discharge document was not determined by the eligibility criteria of the DSHA, and the decision maker under the DSHA should look behind the formal reasons for discharge and reach a decision based on the factual material provided.

27. The Board notes that the AAT in *Rana v Repatriation Commission* [2009] AATA 671 accepted that, based on *Whiteman's Case*, notwithstanding the language of section 69 (1) (d) it is open to the Tribunal to look behind the administratively noted ground of discharge in order to find the actual reason for the discharge.

28. In this case, there is evidence that on enlistment the applicant's academic results from St Bernard's College, Essendon, were considered *'marginal'* (folio 36), although following an interview and assessment on 10 August 1981 she was noted as being *an OK scholar. No problems at all there.* Subsequent reports on 27 November 1984 referred to a lack of leadership qualities and as to grave doubts being expressed as to her *peer group acceptance and man management potential* (folio 36). The reports culminated in the decision being made to terminate the applicant's officer training, with her being given the option to resign, which she took.

29. The evidence indicates that the applicant did not fit in with her peers, and this culminated in her being bullied and harassed by a number of them, and by some more senior officers. The applicant has set out at length the nature of the bullying and harassment experienced by her in her statutory declaration made 14 March 2012 (folios 161-5), and it is not necessary to repeat the details in these reasons. Father O'Connor, who was the Catholic Chaplain at *Creswell* at the

relevant time, in a statutory declaration made 17 January 2012, at folios 168-9, confirmed that he was aware that the applicant was *subjected to significant and continuous bastardisation that included, but was not limited to:*

- *Continued verbal abuse and harassment by peers and more senior midshipmen.*
- *Being continually interfered with on buses when being transported by Naval Transport.*
- *Being locked in her cabin.*
- *Excessive punishments.*
- *Regularly having his (sic) cabin broken into and trashed.*
- *Repeatedly being bashed and blanket bashed.*
- *On at least two occasions being hunted around the base.*
- *Once, when the College was due to leave early on a Friday at 12.00PM. The abuse inflicted on Mr Jacomb was so bad that the Captain of the College fell-in all midshipmen on the Quarterdeck and would allow none to proceed on leave until the perpetrators came forward.*

30. Father O' Connor commented in relation to this and another incident where the applicant was chased around the base and felt in fear of his life, that:

The overall impact of the above was to make Mr Jacomb jumpy, more and more unhappy and depressed, adversely affecting his health and less and less able to perform his duties and pass his courses. This was reflected in his performance appraisals and his academic results.

31. [REDACTED] who was a cadet at Creswell with the applicant, in a declaration made 14 February 2012 (folios 158-9) confirms that he was aware of the applicant undergoing bastardisation from peers and superiors, which adversely affected her health, so that *she was less able to perform her duties and pass her courses. I understand that this was reflected in her performance appraisals and academic results and degraded her performance under training leading to her resignation in 1985.*

32. A declaration by Mr D Byrne, another former cadet with the applicant at HMAS Creswell (folios 155-6) supported the evidence of the other witnesses to the applicant's treatment at the hands of her peers and superiors, and the affect it had on her.

33. Having regard to all the material before it, although the applicant's record states that at the last interview the applicant said that; *he was getting on well with people* (folio 36), the Board is reasonably satisfied that the applicant had experienced serious harassment and bullying throughout her service at HMAS Creswell.

34. The Board notes that Dr S Kwong, consultant psychiatrist, in a report dated 10 October 2011, concluded after considering the stressor events described by the applicant, that: *If Jennifer's report of her experiences at Creswell is found to be truthful, Jennifer has been suffering from a Posttraumatic Stress Disorder (PTSD) as a result of her service in the Navy from 1983 to 1985 (folio 61).*

35. Dr John Wardell, consultant psychiatrist, in a report date stamped 27 August 2008, diagnosed PTSD and major depressive disorder, and accepted that it was likely that the PTSD stemmed from bastardisation from the time the applicant was in HMAS *Creswell*, although exacerbated by a more recent serious assault (folio 37).

36. Having regard to all the material before it, the Board is reasonably satisfied that the applicant experienced the harassment, bullying and bastardisation at HMAS *Creswell* which led to her suffering from then undiagnosed PTSD. This in turn had an adverse affect on her capacity to study and meet the demands of her training. As a result, while the formal record shows that the applicant resigned from the Officer Training Course, the underlying and real cause of the termination was her ill treatment and the resulting PTSD, which led, in the words of section 69 (1) (a) (ii) of the Act to her *discharge on the ground of invalidity or physical or mental incapacity to perform duties.*

37. The decision under review is therefore **set aside** and the Board's decision **substituted that the applicant was a 'member of the forces'** as defined in the Act. The matter is remitted to the Repatriation Commission for further consideration of the substantive claims.

Regan *Wardell* *J.*



Annexure C – Defence Pay Rates



ADF Permanent Pay Rates - 10 November 2011

The ADF Workplace Remuneration Arrangement 2009-2011 has delivered a 4% increase to Colonel (E) and below effective from 10 November 2011.

These tables show salaries and allowances at a glance for full and part time ADF members. The basic salary rates (ie not inclusive of Service Allowance - Permanent Force - \$52,128 pa) are shown.

This brochure is a guide only. For further information on policy and entitlements, refer to the ADF PACMAN at the Defence Pay & Conditions Web site: Intranet - http://intranet.defence.gov.au/pac Internet - http://www.defence.gov.au/pac

Table with columns: Rank, Inscr, and salary rates for various trainee categories including basic training, initial employment, and undergrad entry schemes.

Table with columns: Rank (Navy, Army, RAAF), Inscr, and salary rates for Officers (CPT, LT, LCDR, etc.).

Table with columns: Rank (WO1, WO2), Inscr, and salary rates for Service Warrant Officers.

Table with columns: Rank (CDR, WO1, WO2), Inscr, and salary rates for Senior Officers.

Table with columns: Rank (CPT, LT, LCDR, etc.), Inscr, and salary rates for Other Rank Appointed as Officer - Transitional.

Table with columns: Rank (WO1, WO2), Inscr, and salary rates for Warrant Officers Class 1.

Table with columns: Rank (WO1, WO2), Inscr, and salary rates for Other Ranks (SGT, PO, etc.).

Table with columns: Rank (CPT, LT, LCDR, etc.), Inscr, and salary rates for Other Rank Appointed as Officer - Transitional (continued).

ADF Allowance Rates - 10 November 2011

Large table containing multiple allowance categories: Service Rate, Reserve Rate, Trainee Rate, Adventurous Training, Separation, Diving, Field, Flying and Flight Duties, Hard Lying, Seagoing Surface, Seagoing Submarine, Seagoing, Arduous Conditions, Language Proficiency, Paratrooper, Specialist Operations, Submarine Service, Submarine Escape, Special Forces Disability, and Reservist.

ADF Reserve Pay Rates - 10 November 2011

Other Ranks (\$ per day)													
Navy	Army	RAAF	Incr	1	2	3	4	5	6	7	8	9	10
				RAA	RAB	RAC	RAD	RAE	RAF	RAG	RAH	RAI	RAJ
CPO	WO2	FSGT	1	176.90	183.14	191.14	199.78	209.12	219.19	230.08	241.84	254.53	268.25
			0	173.25	179.48	187.49	196.13	205.46	215.55	226.43	238.19	250.88	264.60
		SSGT	0	167.44	173.67	181.67	190.32	199.65	209.73	220.61	232.37	245.07	258.78
PO	SGT	SGT	1	156.14	162.37	170.38	179.02	188.36	198.44	209.32	221.08	233.77	247.49
			0	149.71	155.95	163.95	172.59	181.93	192.01	202.89	214.64	227.34	241.06
LS	CPL	CPL	1	134.96	141.20	149.20	157.84	167.18	177.25	188.14	199.89	212.59	226.31
			0	129.37	135.61	143.61	152.25	161.58	171.66	182.55	194.30	207.00	220.72
		LCPL	0	119.00	125.24	133.24	141.88	151.21	161.29	172.18	183.93	196.63	210.35
AB	PTE(P)	LAC	0	116.54	122.78	130.78	139.42	148.76	158.84	169.72	181.48	194.18	207.89
SMN	PTE	AC	0	114.13	120.38	128.37	137.01	146.35	156.43	167.32	179.07	191.77	205.48

Warrant Officers (\$ per day)												
Rank	Incr	1	2	3	4	5	6	7	8	9	10	
WO1 - Tier C	0	-	-	-	-	-	-	-	RXR	RXS	RXT	
									263.08	275.79	289.50	
WO1 - Tier B	0	-	-	-	RXD	RXE	RXF	RXG	RXH	RXI	RXJ	
					221.03	230.37	240.45	251.33	263.08	275.79	289.50	
WO1 - Tier A	2	RWA	RWB	RWC	RWD	RWE	RWF	RWG	RWH	RWI	RWJ	
		192.06	198.30	206.30	214.94	224.27	234.35	245.24	257.00	269.70	283.41	
	1	188.10	194.33	202.33	210.98	220.32	230.39	241.27	253.03	265.73	279.44	

Transitional - Other Rank Appointed as Officer (\$ per day)													
Navy	Army	RAAF	Incr	1	2	3	4	5	6	7	8	9	10
				RSA	RSB	RSD	RSF	RSI	RSJ	RSK	RSL	RSM	RSN
LEUT	CAPT	FLT LT	3	200.17	210.61	222.66	233.09	244.73	257.78	270.87	285.04	299.22	308.68
			2	195.36	205.79	217.84	228.28	239.92	252.96	266.06	280.23	294.40	303.87
			1	190.53	200.97	213.03	223.46	235.09	248.15	261.23	275.41	289.57	299.04
			0	185.73	196.17	208.22	218.66	230.30	243.34	256.43	270.61	284.78	294.25
SBLT	LT	FLGOFF	3	180.93	191.38	203.42	213.85	225.50	238.54	251.63	265.80	279.98	289.45
			2	176.13	186.56	198.61	209.05	220.68	233.73	246.82	260.99	275.17	284.64
			1	171.32	181.76	193.80	204.24	215.88	228.92	242.01	256.18	270.36	279.83
			0	166.49	176.93	188.98	199.41	211.05	224.09	237.18	251.36	265.54	275.00
ASLT	2LT	PLTOFF	0	161.70	172.14	184.18	194.62	206.26	219.30	232.39	246.56	260.74	270.21

Officers - Full (\$ per day)													
Navy	Army	RAAF	Incr	1	2	3	4	5	6	7	8	9	10
				RGA	RGB	RGD	RGF	RGI	RGJ	RGK	RGL	RGM	RGN
CAPT	COL	GPCAPT	0	355.50	365.94	377.99	388.42	400.06	413.11	426.19	440.37	454.54	464.01
CMDR	LTCOL	WGCDR	1	312.50	322.94	334.99	345.43	357.07	370.11	383.20	397.38	411.55	421.02
			0	302.28	312.72	324.77	335.21	346.84	359.89	372.98	387.16	401.33	410.79
LCDR	MAJ	SONLDR	1	226.43	236.87	248.92	259.35	270.99	284.03	297.13	311.30	325.47	334.94
			0	212.08	222.53	234.57	245.00	256.64	269.69	282.78	296.96	311.13	320.60
LEUT	CAPT	FLT LT	2	193.35	203.79	215.84	226.28	237.92	250.96	264.05	278.22	292.40	301.87
			1	179.72	190.17	202.22	212.65	224.29	237.33	250.42	264.60	278.77	288.24
			0	166.11	176.54	188.59	199.02	210.66	223.71	236.80	250.98	265.15	274.62
SBLT	LT	FLGOFF	1	148.88	159.32	171.36	181.80	193.44	206.48	219.58	233.75	247.93	257.39
			0	138.08	148.52	160.57	171.01	182.64	195.69	208.78	222.95	237.13	246.60
ASLT	2LT	PLTOFF	1	133.55	143.99	156.04	166.47	178.11	191.16	204.24	218.42	232.59	242.06
			0	129.01	139.45	151.50	161.93	173.57	186.62	199.72	213.88	228.06	237.53

Officers - Discounted (\$ per day)													
Navy	Army	RAAF	Incr	1	2	3	4	5	6	7	8	9	10
				ROA	ROB	ROD	ROF	ROI	ROJ	ROK	ROL	ROM	RON
CAPT	COL	GPCAPT	0	319.95	329.34	340.19	349.58	360.05	371.80	383.58	396.33	409.09	417.61
CMDR	LTCOL	WGCDR	1	281.25	290.65	301.50	310.89	321.36	333.10	344.88	357.64	370.39	378.91
			0	272.05	281.45	292.30	301.69	312.16	323.90	335.68	348.44	361.19	369.72
LCDR	MAJ	SONLDR	1	203.79	213.18	224.03	233.42	243.89	255.63	267.42	280.17	292.92	301.45
			0	190.87	200.27	211.12	220.50	230.98	242.72	254.50	267.26	280.02	288.54
LEUT	CAPT	FLT LT	2	174.02	183.42	194.26	203.65	214.13	225.87	237.65	250.40	263.16	271.68
			1	161.75	171.15	181.99	191.38	201.86	213.60	225.38	238.14	250.90	259.41
			0	149.50	158.89	169.73	179.12	189.60	201.34	213.12	225.88	238.63	247.15
SBLT	LT	FLGOFF	1	133.99	143.39	154.23	163.62	174.10	185.84	197.62	210.38	223.14	231.65
			0	124.27	133.67	144.51	153.90	164.38	176.12	187.90	200.65	213.41	221.94
ASLT	2LT	PLTOFF	1	120.19	129.59	140.43	149.82	160.30	172.04	183.82	196.57	209.33	217.85
			0	116.11	125.51	136.35	145.74	156.22	167.96	179.74	192.49	205.25	213.78

Trainees (\$ per day)	
Rank	RET
Recruit - basic training	78.18
PTE (E), not completed cat trg/mil trade test	92.43
	RTS
Officer Training Unit - without degree	90.99
	RTS
Officer Training Unit - degree	103.13

Senior Officers (\$ per day)						
Navy	Army	RAAF	Incr	1	2	3
				RGK	RGM	RGN
RADM	MAJGEN	AVM	1	575.34	-	-
			0	545.21	-	-
CDRE	BRIG	AIRCORE	1	460.64	488.71	498.09
			0	447.23	474.48	483.58

Notes:
 * Discounted rates apply to Army Officers without current/previous HRR, non ex-ARA or non full ARA competencies.
 * PMKEYS pay grade codes are displayed in red.

Annexure D – Base Calculation No Promotion Beyond Lieutenant

Calculation Assuming No Promotion Beyond Lieutenant No Military Qualifications

1.0 Base Salary

Rank	Year	Salary	
2nd Year Mid	2	\$33,086.00	19
3rd Year Mid	3	\$38,176.00	20
4th Year Mid	4	\$43,266.00	21
1st Yr SubL	5	\$50,400.00	22
2n yr SubL	6	\$52,328.00	23
1st Yr Lieut	7	\$60,629.00	24
2nd Yr Lieut	8	\$63,119.00	25
3rd Yr Lieut	9	\$65,599.00	26
4th Yr Lieut	10	\$68,079.00	27
5th Yr Lieut	11	\$70,574.00	28
6th Yr Lieut	12	\$73,061.00	29
7th Yr Lieut	13	\$73,061.00	30
8th Yr Lieut	14	\$73,061.00	31
9th Yr Lieut	15	\$73,061.00	32
10th Yr Lieut	16	\$73,061.00	33
11th Yr Lieut	17	\$73,061.00	34
12th Yr Lieut	18	\$73,061.00	35
13th Yr Lieut	19	\$73,061.00	36
14th Yr Lieut	20	\$73,061.00	37
15th Yr Lieut	21	\$73,061.00	38
16th Yr Lieut	22	\$73,061.00	39
17th Yr Lieut	23	\$73,061.00	40
17th Yr Lieut	24	\$73,061.00	41
18th Yr Lieut	25	\$73,061.00	42
19th Yr Lieut	26	\$73,061.00	43
20th Yr Lieut	27	\$73,061.00	44
20th Yr Lieut	28	\$73,061.00	45
21st Yr Lieut	29	\$73,061.00	46
22nd Yr Lieut	30	\$73,061.00	47
23rd Yr Lieut	31	\$73,061.00	48
24th Yr Lieut	32	\$73,061.00	49
25th Yr Lieut	33	\$73,061.00	50
26th Yr Lieut	34	\$73,061.00	51
27th Yr Lieut	35	\$73,061.00	52
28th Yr Lieut	36	\$73,061.00	53
29th Yr Lieut	37	\$73,061.00	54
30th Yr Lieut	38	\$73,061.00	55
		\$2,517,903.00	

2.0 Service Allowance

Years	Amount	Total
3	\$9,092.00	\$27,276.00
35	\$12,128.00	\$424,480.00
		\$451,756.00

3.0 Seagoing Allowance

8	\$11,758.00	\$94,064.00
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4.0 Total Income Lost \$3,063,723.00

5.0 Superannuation Benefits Foregone

Years	Rate	FAS	Employer Benefit Foregone	
7	0.18	\$73,061.00	\$92,056.86	
13	0.23	\$73,061.00	\$218,452.39	
18	0.28	\$73,061.00	\$368,227.44	
			\$678,736.69	

6.0 Total Income Benefit Lost:
\$3,742,459.69

Annexure E – Compensation - More Realistic Figure

Calculation Assuming Promotion To Lieutenant Commander With Military Qualifications for Middle Of Band, LCDR after 7th year

1.0 Base Salary

Rank	Year	Salary	
2nd Year Mid	2	\$33,086.00	19
3rd Year Mid	3	\$38,176.00	20
4th Year Mid	4	\$43,266.00	21
1st Yr SubL	5	\$50,400.00	22
2n yr SubL	6	\$52,328.00	23
1st Yr Lieut	7	\$60,629.00	24
2nd Yr Lieut	8	\$63,119.00	25
3rd Yr Lieut	9	\$65,599.00	26
4th Yr Lieut	10	\$74,385.00	27
5th Yr Lieut	11	\$81,270.00	28
6th Yr Lieut	12	\$85,079.00	29
1st Year LCDR	13	\$93,675.00	30
2nd Year LCDR	14	\$96,297.00	31
3rd Year LCDR	15	\$98,911.00	32
4th Year LCDR	16	\$98,911.00	33
5th Year LCDR	17	\$98,911.00	34
6th Year LCDR	18	\$98,911.00	35
7th Year LCDR	19	\$98,911.00	36
8th Year LCDR	20	\$98,911.00	37
9th Year LCDR	21	\$98,911.00	38
10th Year LCDR	22	\$98,911.00	39
11th Year LCDR	23	\$98,911.00	40
12th Year LCDR	24	\$98,911.00	41
13th Year LCDR	25	\$98,911.00	42
14th Year LCDR	26	\$98,911.00	43
15th Year LCDR	27	\$98,911.00	44
16th Year LCDR	28	\$98,911.00	45
17th Year LCDR	29	\$98,911.00	46
18th Year LCDR	30	\$98,911.00	47
19th Year LCDR	31	\$98,911.00	48
20th Year LCDR	32	\$98,911.00	49
21st Year LCDR	33	\$98,911.00	50
22nd Year LCDR	34	\$98,911.00	51
23rd Year LCDR	35	\$98,911.00	52
24th Year LCDR	36	\$98,911.00	53
25th Year LCDR	37	\$98,911.00	54
26th Year LCDR	38	\$98,911.00	55
		\$3,211,173.00	

2.0 Service Allowance

Years	Amount	Total
3	\$9,092.00	\$27,276.00
35	\$12,128.00	\$424,480.00
		\$451,756.00

3.0 Seagoing Allowance

8	\$11,758.00	\$94,064.00
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4.0 Total Income Lost \$3,756,993.00

5.0 Superannuation Benefits Foregone

Years	Rate	FAS	Employer Benefit Foregone	
7	0.18	\$98,911.00	\$124,627.86	
13	0.23	\$98,911.00	\$295,743.89	
18	0.28	\$98,911.00	\$498,511.44	
			\$918,883.19	

6.0 Total Income Benefit Lost:
\$4,675,876.19