

**Senate Foreign Affairs, Defence and Trade
References Committee**

SUBMISSION COVER SHEET

Inquiry Title: Defence Health Arrangements Prior to Deployment

Submission No: 10

Date Received: 16.02.04

Organisation:

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Submitter Ms Janet Screaton

Name/Contact:

Date Authorised:

Dear Sir,

RE: Current health preparation arrangements for the deployment of Australian Defence Forces overseas.

With reference to the above I would like to make a submission based on facts and evidence of the Anthrax vaccination requirement for Australian Defence Force personnel deployed to the 2003 Gulf War.

On the 5th December 2002 my husband Leading Seaman Lorne Screamon was posted to HMAS Kanimbla. As with any new posting the medical section on board made sure my husband was up to date with all required vaccinations at the time of him posting in. This did not include anthrax or mencevax vaccinations and no mention of these vaccinations were made.

HMAS Kanimbla sailed on the 19th January 2003 at this time the crew were advised that they were sailing to the Gulf. On the 21st January the ship returned back to Sydney and the crew were advised that the Government wanted to have an official send off to be held on the 23rd January 2003.

My husband sailed on the 23rd January and his family attended the official send off on board the ship. The Chief of Navy Vice Adm Ritchie advised the crew and families that there would be many challengers ahead. We thought this would be with the enemy and not with the Royal Australian Navy. The ship needed to pass OLOC status before she could proceed into the war zone. The crew worked hard 24 x 7 and achieved OLOC in 8 days never done before in the Australian Navy as it normally takes 6 weeks. After a weekend in Darwin the ship sailed onto the Gulf now being the 3rd February. On Tuesday the 4th February the crew were advised of voluntary anthrax vaccination requirement with the emphasis that it was voluntary. This was the first word of any vaccination requirement all NBCD training was completed before deployment in early January.

My husband contacted me as soon this was announced onboard the ship and for 4 days my husband and myself went on a roller costar ride with the continues changes of direction verbally and physically given by senior officers onboard the ship as well as shore based defence departments. This created stress and anxiety to my self and disbelief in the Navy's actions for my husband. On the 7th February after I held conversation with Rear Admiral Gates Maritime Commander Australia. The Navy advised that my husband would be returned back to Australia. 3 Personnel were returned on the 11th February, one of the personnel being Able seaman Simon Bond went public on the 7-30 report and advised of harassment subjected to non-consenting Anthrax personnel on board HMAS Kanimbla. Simon was delayed in lodging any formal complaint with the Navy by way of the legal officer that the Navy appointed losing all his file notes.

On the 28th February my husband lodged his own complaint, which could only be done by way of redress of grievance, which contained 12 grievances. At the same time being a defence force spouse I lodged a report with the Defence Force Ombudsman, which cannot be addressed until the Redress of Grievance procedure had been completed. The Navy appointed an investigating officer being CMDR Michael Slattery QC RANR. On the 16th May 2003 the investigating officer had completed his investigation and compiled a report with recommendations. 22nd May 2003 CMDR J Connor my husband's new commanding officer gave his decisions on the 12 grievances that had been submitted. The report given back to us did not make sense and did not address the issues in question.

We requested a copy of the investigating report, which was eventually given by the Minister of Defence Robert Hill with a regulation 63 placed over my husband and myself. This regulation 63 should never have been issued as there had not been a court hearing for it to apply.

The new commanding officers' decisions consisted of extracts from the investigating officer's report, but not the conclusions.

We were given 4 weeks in which to analyse the report and compile a disagreement to the CO's Decision. This was by all means a tight time frame as my husband was sent back out to sea on deployment during this period. On the 8th August my husband handed to his new commanding officer a 175-page report to be referred to the Chief of Navy for determination. This report was based on disagreements with the investigating officers' report and not the new commanding officers' decisions.

6 months later being 5th February 2004 a 11-page determination report for the chief of Navy was handed back to us. With advice that any further action now needs to be addressed with the Defence Force Ombudsman.

It has now taken us one year to obtain just a few truths and an understanding of the actions of various Navy departments. Some of the grievances lodged and their findings fit into your terms of reference and I have included the investigation officers' findings and recommendation as well as the Chief of Navy's determinations.

The adequacy of current arrangements within the Department of Defence for the health preparation for the deployment of the Australian Defence Forces (ADF) overseas;

The adequacy of information provided to individual ADF members pre-deployment, of the likely health risks and anticipated remedial activity required;

Grievance One

No Pre Deployment or Deployment Advice of the requirement for Anthrax Inoculation for HMAS Kanimbla Junior Sailors

Redress Sought

Inquiry into why Commanding Officer of HMAS Kanimbla did not inform his ship's company the requirement for Anthrax inoculation in a formal or informal manner at any time in the pre deployment period including the deployment period up to Monday 03 Feb 03.

Investigation Findings

The investigation revealed that on 20 Jan 03 a classified executive order for OP BASTILLE was issued. Although the effect of this order has become public in a variety of ways since its issue, it remains classified. The order authorized an anthrax vaccination program for personnel deploying to the MEAO, who had not already been vaccinated, to commence in a priority order.

On 21 Jan 03, a classified signal was received by KANIMBLA about the positioning of the anthrax vaccine. From 21 Jan 03, the CO was acting on the basis that he

would await authorization from HQAUST in relation to any vaccination program that was required before entry into the MEAO. Among senior personnel in KANIMBLA prior to departure anthrax or other vaccinations were not seen as immediately important considerations in the minds of those senior officers. Questions were put by the Investigating Officer to both the sailors, who were taken off KANIMBLA and to a number of sailors and officers on board. The information, which they all gave this investigation, about the lack of discussion or anticipation of anthrax vaccination onboard, was the same. Little or no attention was given to the issue before departure or between departure from Fleet Base East and Darwin. Their focus at that time was on successfully achieving the Operational Level Of Capability (OLOC) phase of the deployment.

On 23 Jan 02 KANIMBLA sailed from Sydney, conducting its OLOC work-up on route to Darwin. This process would normally have taken up to three weeks, however was achieved within a compressed time frame of eight days.

On 3 Feb 03, whilst at anchor in Darwin, the CO KANIMBLA was informed for the first time that anthrax vaccinations were to commence. The ship was that time involved in the final storing of the ship and the embarkation of stores for transport to the AO. The CO concluded that it was not feasible to conduct the education campaign in anticipation of the administration of the anthrax vaccine for all personnel onboard between the time the signal was received and departure from Darwin at 1600 that day.

Investigating Officers Recommendation

It is recommended that at an appropriate level, the ADF give consideration to developing policies which:

- a. Will facilitate the offering of vaccination programs for all potentially deployable personnel a reasonable time before deployment and
- b. Will avoid vaccination programs being undertaken whilst ADF members are on deployment

Grievance Three

The Consent Form and Anthrax Immunisation sheet reads "MAY" not be eligible for operational deployment distributed on board HMAS Kanimbla on Tuesday 04 Feb 03. New consents form now reads "will not" be eligible
(It was never revealed that it would be anything other than MAY)

Redress Sought

Inquiry as to why the consent form and Anthrax Immunisation sheet was issued as a 'may not be eligible' when it now reads as 'will not be eligible'.

Investigation Findings

Information available from the DFMO and Fleet Legal Officer (FLO) indicated to the Investigating Officer that the form presented to you was in the process of development by a number of agencies, including HQAUST in Jan 03. Although the version signed by you, and attached to your ROG, does not have an approval

date on it: it is identical to a consent form which was approved on 29 Jan 03. This form is part of a four-page document, which was sent to KANIMBLA by DFMO, and being annex A and annex B to your ROG. Thus, this version was finalized after the OP BASTILLE execute order was issued. Although the consent form was crafted with OP BASTILLE in mind, analysis of the form makes it clear that it is not operations specific to that operation. OP BASTILLE was the occasion for the updating of the form but it does not alone explain its contents. Your assumption that there is a connection between the form and OP BASTILLE specifically is an understandable one, but it is mistaken. The form was undoubtedly amended in the time frame that it was for use in OP BASTILLE. The possibility existed that it may have been used in other operations. Thus, the language was not crafted to reflect specific orders or policies associated with the conduct of OP BASTILLE. In fact, quite the contrary, its form is crafted so that it could be used for OP BASTILLE and other operations where the health support plans and requirements were different from those intended to be used in OP BASTILLE.

There is another assumption underlying this grievance that has not been established to the satisfaction of this investigation. The grievance assumes that the consent form has been changed so that the words "may not" have now become "will not". The form was amended on 10 Feb 03. The purpose of that amended relevantly by the addition of only one word, which is identified in bold below;

"I understand that I may refuse to accept anthrax vaccine without prejudicing my medical care but that I may not be eligible for specific operational deployment".

Chief of Navy Determination

It would have been preferable to inform you at the time of seeking your consent that refusal of the Anthrax vaccination would disqualify you from proceeding with the deployment.

Grievance Eight

Lack of policies and procedures for removal of LSMT Screamon on behalf of the Navy and HMAS Kanimbla.

Redress Sought

- A. Pre- planning required before deployment on removal of non consenting personnel and
- B. Policies and procedures manual required for removal of non consenting Anthrax personnel and
- C. Explanation in writing on what is the 'Navy's duty of care' and
- D. Letter of apology to LSMT Screamon's wife for the lack of direction in regards to the whole deployment

Investigation findings

After considering all of the material associated with your complaint, I agree that promulgated policy and procedures would have clarified this issue for all involved.

Whilst I also agree that the redress you seek regarding 'pre planning required before deployment on removal of non-consenting personnel' and a 'policies and procedures manual be required for removal of non-consenting Anthrax personnel' would be beneficial I am also aware of the complexities and constraints of this issue. Due to classified nature of all operational deployments and the flexibility required, due to the dynamic nature of operational situations, it is not possible to mandate for every scenario that the ADF may have to undertake in executing Government initiatives. Therefore I cannot support the redress you seek regarding the promulgation of a policy and procedures manual, even restricted to Anthrax as the issues are too varied to articulate.

Chief of Navy Determination

I accept that when you refused to consent to Anthrax vaccinations on board HMAS Kanimbla, there was a degree of uncertainty and confusion as to what to do among all personnel involved. As previously mentioned, it has since been recognized that an earlier education program should have been introduced and personnel informed that the Anthrax vaccine was mandatory for proceeding with the deployment. Any uncertainty for similar situations in the future has been removed with June 2003 issue of ADFP1.2.2.1- Immunisation Procedures which replaced ADFP 702 as outlined. Paragraph 1.4 that failure to undertake a vaccination program can lead to being deemed non-deployable and may lead to a review of fitness to continue serving in the ADF.

Paragraph 2.10 goes on to say that members who refuse either routine or designated additional vaccines are not compliant with individual readiness and are therefore unfit to deploy. It would have been preferable for personnel deploying on HMAS Kanimbla on OP Bastille to have been informed of the requirement for Anthrax vaccination prior to departure.

Grievance Ten

No notification of Medical Employment Classification restriction on non-consenting Anthrax personnel and incorrect recording on MECRR.

Redress Sought

- A. Inquiry as to why no notification on MEC207 was not given to the ships crew during 10th January and 7th February.
- B. Correct date to be recorded on MECRR as per consent form dated 5th February.

Investigation Findings

It appeared to the Investigating Officer to be uncontentious that at no stage between 10 January and 7th February were you advised that by not consenting to a voluntary anthrax vaccination you would be placed on a MEC207 for 12 months. The real issue with this grievance is not so much whether you were not advised about the potential

liability to a prejudicial administrative act. The real question is whether or not what has occurred is an administrative act., which may be prejudicial to you and if it is, whether it can and should be reversed.

The investigation was conducted and has concluded that this issue was not explained to the ships company during this period. As explained above, the decision to classify you MEC207 was made by the MO as a protective measure to you, not as a result of any policy regarding the issue.

Chief of Navy's Determination

You say that you are dissatisfied with the Commanding Officers decision because your informed consent was based on the briefing, which advised that there would be no administrative action taken against con-consenting personnel. You contend that the medical reclassification to MEC207 was a prejudicial administrative action that was harmful to your career and prevented you from serving your country in war when you were already on deployment. You go on to say that this action prevented you from receiving war service conditions and allowances. You also claim that medical re-categorisation was the only way of removing non-consenting personnel from the ship. I am satisfied that there was no need to provide an advance explanation of the possibility of medical re-categorisation to the ship's company and in your particular case, you have been provided with reasons for changing your medical category. I consider the claim that you made your decision to refuse the Anthrax vaccination in the absence of informed consent and that as a consequence you were adversely affected cannot be sustained.

You are also incorrect in your assertion that medical re-categorisation was the only way of removing you from HMAS Kanimbla. Clear instructions were contained in the then extant ADFP 702 at paragraph 5.11c. Which stated in part: Any member who refuses vaccination with Anthrax is not to be deployed to regions or environments where there is a threat of Anthrax exposure. It follows that the decision to land you from HMAS Kanimbla was in accordance with extant policy rather than being contrived to facilitate your removal.

With respect to this grievance I am satisfied that you have no grounds for complaint concerning the lack of early notification of possible medical re-categorisation.

The adequacy of record keeping of individual health and treatment episodes of those deployed and access to those records by the individual; and

The adequacy of current arrangements for the administration of preventive vaccination, standards applied to drug selection, quality control, record keeping and the regard given to accepted international and national regulation and practice;

Grievance Two

The RAN neglected its duty of care to LSMT Screamon on the grounds that the CMDR MO on board HMAS Kanimbla was unable to disclose the components of the Anthrax vaccine

Redress Sought

- A. Inquiry as to why information on components was not requested/obtained at time of ordering or at time of delivery into Australia.
- B. All KANIMBLA's crew to be informed of batch number, shelf date and components in writing.

Investigation Findings

The investigation revealed that the product leaflet which accompanied the UK anthrax vaccine (in the boxes) was deficient in that it was not detailed like that provided by an Australian manufacturer. KANIMBLA's MO stated he did tell several people this and that he was trying to get more information. He also stated that perhaps the Ship's Company did not know that he was not just relying on the brochure in the box, although he commented that he thought the detail on the power point presentation was very good.

The investigating Officer obtained from the MO a copy of the product leaflet, which accompanied the UK anthrax vaccine. The leaflet is dated December 2002 and does not identify the medium or media used to carry the active components of the vaccine or attempt to identify the chemical composition of any of the non-active ingredients of the vaccine.

The leaflet does not indicate whether any of the possible "undesirable effects" of the vaccine is related to the active ingredients or could be related to other chemicals in the vaccine. It was difficult for the MO when asked this question (without notice) in the briefing to do anything other than he did on the basis of the information available to him.

The other electronic information made available to him by Deputy Fleet Medical Officer (DFMO) would have taken some time to search to see whether it addressed issues as specific as this one. The investigation offers no criticism of the MO for this response to this question. Quite the contrary, his frank admission that the material available to him was not adequate was an expression of the professional candour that one would have expected in a medical officer attempting to do his best to inform questions about the limits of the information then readily available to him.

Nevertheless the experience of these briefings does suggest that precise questions of this kind can be asked and is better that the information be available. As ADF personnel become better trained and with more specialized engineering and scientific skills, the possibility of such questioning obviously increases. It is desirable, with new vaccinations, that education programs be planned thoroughly after a focus group of personnel have been used to draw out the range of possible questions that are likely to arise for the MO. Accordingly I have made a recommendation to Chief of Staff, Maritime Headquarters that this should occur in future.

Chief of Navy's determination

On review of the lessons learnt from the deployment to Iraq, it has been recognized that an appropriately focused education program should have been introduced earlier concerning the Anthrax vaccination program. In future

situations of this kind, education programs will be introduced early following consideration of all the issues including the use of focus groups.

It is not intended to inform HMAS Kanimbla personnel with details of the Anthrax vaccination which they received for the reasons set out below.

- a. At the time of inoculation, a copy of the consent form was enclosed in the members UMR, a record of the vaccination was made in the Members Certificate of Vaccination and a consolidated record of all immunized personnel was recorded and forwarded to HQAST.
- b. Given the extensive existing record there is no need to raise a further record and no individual letter is forwarded in respect of other vaccinations
- c. The consolidated list held by HQAUST enables details of the Anthrax vaccination to be provided if required
- d. Only the date of vaccination, not shelf life or batch number were recorded
- e. The shelf life of the vaccination and the batch number are unable to be provided because these were not recorded. The vaccines were checked at the time of inoculation to ensure they were in date and the batch number was recorded on the packaging or the ampoules, which were destroyed after vaccination.
- f. The batch number of vaccinations is sometimes recorded but there is no strict requirement to do so. Batch numbers are used by manufactures to allow for quality control on post manufacture testing. This allows for quality certification of full batch and correction of errors. Rarely will it be used in post recall of medications and there has been no recall by the manufactures of any batch numbers of Anthrax vaccine used by the ADF

It would have been preferable to have obtained the details of the components of the Anthrax vaccine prior to commencing the education program.

The engagement in this process of the Department of Veterans Affairs and the Repatriation Medical Authority for the purposes of administering and assessing compensation claims;

The adequacy of the current research effort focusing on outstanding issues of contention from ex-service community with respect to health outcomes from past deployments, and the means by which it might be improved.

Points for consideration

1. Vaccinations should only be conducted along shore and not while on deployment.
2. Informed consent forms should be fully informed at time of consent, which should contain all consequences for non-consenters including removal of personnel and long term employment consequences.

3. Consent should not be sort under duress as per annex (a) non-consenting personnel dairy note
4. Consent should not be presented as voluntary when explicit orders are that it is mandatory.
5. ADFP 1.2.2.1 Parr 1.4 This paragraph leaves open for a recurrence of what happened on board HMAS Kanimbla to the extent that vaccination could be accepted under duress by way of Retention Not in the Interest of the Navy (RNIN).
6. The Record of Vaccination in International Certificates of Vaccination book only shows date and name of vaccination, it does not have the shelf life, batch number, where the vaccination was given (establishment), full name of the person giving the vaccination.
7. The Record of Vaccination book is not updated on strict bases, as the vaccination given to my husband on the 4/12/02 is not recorded.
8. The record of vaccination book is not cross referenced with the unit medical record file.
9. The Unit medical file does not show all vaccination history.
10. The health facility (establishment at time of medical) is not always filled out on PM105 Form (outpatient clinical record)
11. No page reference order due to ENCL/Folio not always filled in which could lead to pages missing. This was proven by page 118 missing in my husbands file being the signature page containing employment and deployment restrictions on the medical Employment classification record.
- 12.** Possible Medical reclassification should be informed at time of consent not after consent form has been signed. Policies should be placed around MEC207 classification in regards to future review of fitness to continue serving in the ADF. All ADF personnel should be made a where of these policies as they are part of their employment conditions.

I trust you will find this in order, please feel free to contact me if you feel you may require any further information or copies of any reports mentioned.

Meanwhile I remain yours faithfully,

Janet Screatton