

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

SUBMISSION COVER SHEET

Inquiry Title: Effectiveness of Australia's Military Justice System

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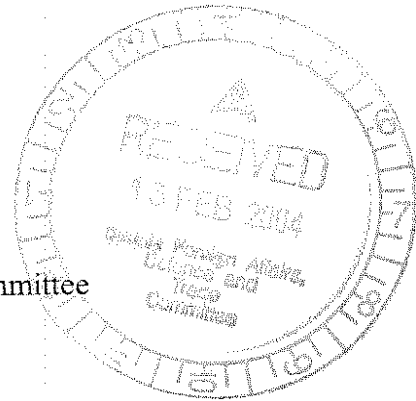
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**A PERSONAL ACCOUNT of MILITARY JUSTICE and
A PERSONAL ACCOUNT of MISTREATMENT**

My motivation in making these submissions is hope. Hope that the system can be changed and servicemen and women will be treated better than those who felt the only action was to commit suicide, and in my case, to be medically discharged suffering severe depression, anxiety and Post Traumatic Stress Disorder (PTSD). Thankfully, I have a caring wife and family, and an excellent hospital and Psychiatrist who support me. I feel I have an insight into what a young, lonely serviceman, away from home, might do to escape the system they feel has failed them.

I will make suggestions that your committee can examine and discuss, and demonstrate how the Defence bureaucracy can and does fail.

Brief service history; 1974-1994	PNF	Navy Photographer ABPH/POPH
1994-1998	Navy Reserve	Navy Photographer POPH
1998-2002	PNF	Navy Photographer POPH/COPH
2002		Discharged Medically Unfit for Naval Service

MILITARY JUSTICE

I had been in the Navy 18½ years when I ran foul of the military justice system. My Commanding Officer onboard HMAS TOBRUK whilst in Somalia in 1993 had me charged with disobeying a direct order. The case revolved around my interpretation of what the CO of TOBRUK said, and what I did. The first time I knew there was some sort of disagreement between the CO of Tobruk and myself was four to five weeks after I'd left the ship and was back at my parent unit, HMAS ALBATROSS (NAS). I was asked to report to the Coxswain's Office for what I thought was a chat about one of my sailors. On hearing the tone of the Investigator's first question I knew the situation was serious and I was under investigation. I excused myself and returned to my section to seek advice.

The next few minutes were the only time I was helped throughout the investigation, which ran for two weeks. The advice I got was from an Investigator at another base who recommended I answer no, repeat no, question. He told me "they're the investigators,

make them investigate, don't help them". I considered this advice that day and night and, considering I'd done nothing wrong, decided to assist them in their questioning. I couldn't see then, as I can't see now, how I (a POPH at NAS) could be held responsible for the cancellation of an RAAF Hercules flight out of Mogadishu, which was the reason the CO's order wasn't followed.

To cut a long story short, I was charged with disobeying the order, found guilty and punished by my Commanding Officer.

What I believe should be addressed by your committee is the resources the military throw at investigations, as opposed to the lack of advice the member receives. If my case is typical there is no support from within the justice system for the accused. They are in it by themselves until they arrive at the Commanding Officer's table where they may get a junior officer to speak on their behalf. There is no presumption of innocence, no right to call supporting witnesses and no need to because in all cases that go before the CO the person charged has pleaded guilty. The alternative is to plead not guilty and go before a courts martial, where you will still be found guilty because the person making the charge is a more senior member than you. (In this case he was the Commanding Officer of a tier one warship in an operational area.) I guess I'm lucky I didn't get shot at dawn! I was told by a very senior officer that I should "not fight the white". In other words, if I wanted to stay in the Navy to finish my 20 years, plead guilty and get over it.

If this is the way the Australian military justice system provides impartial, rigorous and fair outcomes I must be the only person to think there is something wrong with the system. Two trained investigators undertook two weeks investigative work to have me charged for something I believe was completely out of my control. No defence support at any time throughout the investigation, and it would have been silly to go to courts martial for this misunderstanding regardless of principals.

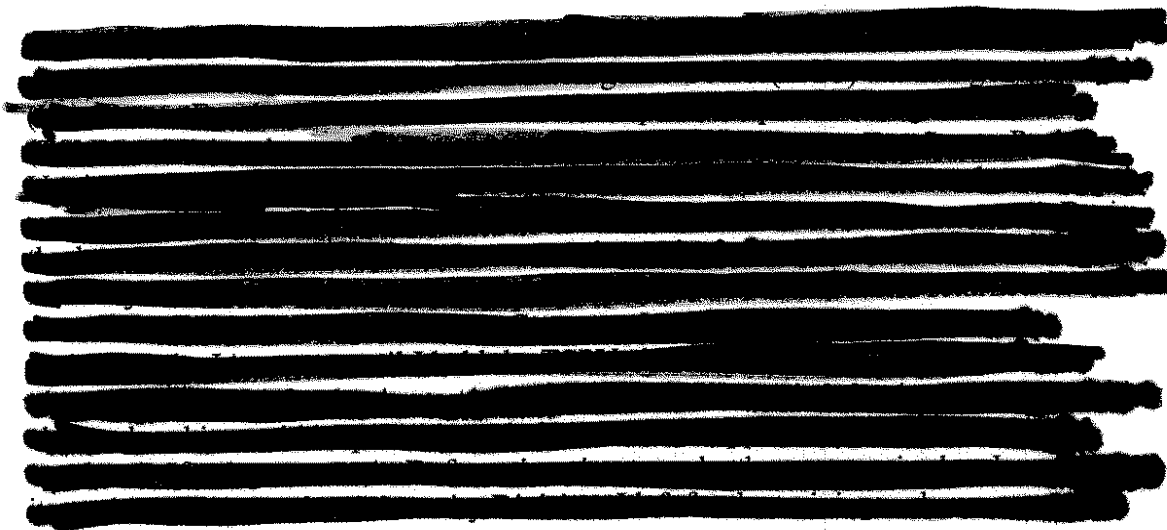
The way I see the system failing the accused is that the charge is brought by someone more senior. The investigators are responsible for proving the charge as it stands. In my case the investigators apparently ignored witness statements and my written diary notes in a concerted effort to prove the charge of which I was accused. Consider for one minute the alternative; the CO of HMAS TOBRUK requests the charge be investigated. He's making the charge so the investigators have no alternative but to believe he's correct. The accused must be guilty so that's the evidence they gather. The alternative for the investigator is to remain impartial but this could possibly threaten their career. The investigator might be posted in the future to work for this officer, or, the officer may be dissatisfied with the outcome of the investigation and complains to the investigator's CO. Either way is doesn't look good on the investigator's record. Their whole reason for existing is to prosecute, and if you don't do your job well you can't expect to get ahead in the military.

Lastly, your committee is examining the Inspector General's role and the proposed office of Director of Military Prosecutions. Is Prosecutions an appropriate word? This suggests that everyone who appears before this Directorate is to be prosecuted. Once again, this

removes the assumption of innocence from the title of the Directorate. A more suitable title might be The Director of Military Law for Defence and Prosecution.

MISTREATMENT in the MILITARY

Mistreatment in the military probably comes in many ways. I would like to describe the incident that led to me being Discharged Medically Unfit for Naval Service. I believe it was mistreatment.



Three days into the IDIC I had what is commonly referred to as a nervous breakdown. The senior instructor arranged a medical appointment for the Friday morning and by 1300 that day I was trying to drive back to Nowra. The doctor gave me one weeks stress leave with orders to report ASAP to the sick bay at NAS. My doctor at NAS then extended my stress leave a further week and this took me up to a week's leave I'd previously arranged. I had three to four weeks to try to get a grip on what had happened to me, a grip on what this would mean for my career, my family, and to try and plan a way through or around the panic and anxiety I was suffering.

On the Tuesday of the second week of stress leave I was contacted by Warrant Officer [REDACTED] from the Directorate of Sailors Career Management (DSCM).

The conversation was:
DSCM What are you doing Chief?
P.S. I don't really know, sir
DSCM Do you think you'll be able to do the courses in
 August?
P.S. Sir, I don't know what happened to me at Canungra
 but I know I'm not well enough to be able to give
 you that answer now, but sir, I don't think I'd want
 put myself back into the same environment
to DSCM Chief, if you can't do the August courses you'll be

no

use to the Navy

P.S.

Thanks for the call sir. I'll contact you when I get back to work. Goodbye sir.

I was devastated - totally shattered. I was on stress leave taking anti-depressant drugs and was told by the Warrant Officer who's managing my career that after 27 $\frac{1}{2}$ years I'll be of no use to the Navy. I learnt two weeks later that he hadn't even discussed my situation with the medical staff before making that call. I am grateful I was already at home with my wife and family when I received this life shattering news. Warrant Officer [REDACTED] wasn't aware I'd contemplated shooting myself whilst struggling with the emotions of panic and anxiety that the Canungra course had created.
(Picture for one moment what that style of management could do to a young soldier or airwoman.....)

On the Thursday DSCM contacted me with an offer of a posting to HMAS CERBERUS. The Chief at DSCM tells me it's some sort of regulator's position but that's all he knows. He explains that the Chief of the Navy has given this billet the highest priority to be filled. He asks me to consider this career move and get back to him. The next day I contact the Chief to tell him I'm not interested in Cerberus but I feel, as one of only two Chief Photographers in the Navy, I might still be able to do something constructive within and for the Photographic Branch. I could work for the Staff Officer Imagery in Canberra as the subject matter expert during the up-coming pay case. Or I could be an additional photographer within the Defence PR organisation. Or I could stay at NAS and work on the training package for Ship's photographers and Aircrewmen and the \$2.35 million equipment proposal for that project, as I had been doing until leaving for Canungra. Any of these jobs I felt may be within my capabilities, but please don't send me to Cerberus. On Friday I was posted to Cerberus as the regulator at the Recruit School. I thanked the Chief for the call and told him to do what he had to and when I returned to work I'll do what I have to. I assumed the posting was to encourage me to resign to leave the way open for someone else to be promoted and take up the training at Canungra.

On the 3rd of March I returned to work to submit my discharge. DSCM wouldn't accept it and the Cerberus posting stood, with only four weeks to move. I sought advice from my Divisional Officer (DO), the Personnel Officer, Doctor and Social Worker. Everyone believed it would be in my best interests to remain at NAS for further treatment. This put a stop to DSCM's plan but it still meant I had no job. Not a very satisfactory existance. My DO raised a couple of options with DSCM on my behalf which were;

DO	What if CPO Simpson seeks reversion in rank? Would you post him to a photographic billet?
DSCM	No
DO	You'll be looking for a volunteer for the August IA course, could CPO Simpson fill that vacant PO's billet?
DSCM	Simpson will never work as a photographer again.

These few weeks saw the disintegration of my career, and the depression and anxiety I suffered (and still suffer) led to me being Discharged Medically Unfit for Naval Service.

I have no complaint with the treatment I received from the medical staff or the efforts expended on my behalf by my Divisional Officer and Commanding Officer. My complaint is about the lack of support offered by DSCM, and the callous use of authority to ensure it would be impossible for me to recover whilst serving. DSCM refused to allow me to return to the Photographic Category and receive treatment from doctors and specialists. I had devoted 28 years to this Category when, without any Psychological evaluation for the Intelligence training or TSPV security clearances, and apparently suffering PTSD, I was posted to Canungra. I believe it should be DSCM's role as career manager to expend every effort in an attempt to get an unwell Chief Photographer back into the workforce. Not just say, "if you can't do the IA course in August you'll be of no use to the Navy".

At Canungra I was alone, scared, depressed, anxious, panicking and thinking that if I shoot myself I won't have to stay here. I will be able to leave Canungra, get back to my family in Nowra and the Navy. I might even be able to get back to my Photographic career. They just have to give me a chance to get well. Schomberger didn't know I wasn't suicidal. What if I didn't have a great wife and two great children, or I'd lost a loved one, been divorced or there had been an uncaring instructor yelling and abusing me at Canungra, this is when the idea of just a little shooting wound might become a suicide attempt.

It's mistreatment to be told after 28 years you're no use to the Navy. It's mistreatment not to be Psychologically tested for very high level security clearances (particularly when you've already been diagnosed with PTSD). It's mistreatment not to be Psychologically evaluated for a forced career change. It's mistreatment to be discharged from the Navy without being diagnosed or treated by a Psychiatrist. It's mistreatment to intentionally hinder the healing process. It's mistreatment to learn that six weeks after my discharge the Navy employs a reserve Chief Photographer on full time service at HMAS ALBATROSS and 18 months later has to employ a reserve Warrant Officer Photographer on full time service.

I wonder if your committee will examine the number of ex members who have thought discharge might be a way of escaping the mistreatment only to discover that the depression, anxiety or whatever won't go away. How many of these ex servicemen and women have either committed suicide or are being treated for an illness that could have been avoided, cured or controlled had they been allowed to work through the illness within the defence family.

Thankyou for the opportunity to comment on these very important issues. Good luck in trying to get the military to change. We've all heard the various heads of Defence say these things don't happen anymore. We've instigated change across the military spectrum and Defence is a sharing, caring employer. Yes, perhaps there have been changes since

my run in with Defence justice after Somalia in 1993, but the incident that took place in 2002 is very recent, and very real and should not happen to any serviceman or woman.

Sincerely

Peter A.H. Simpson
13 February, 2004