

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

SUBMISSION COVER SHEET

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**SUBMISSION TO THE SENATE INQUIRY INTO
THE EFFECTIVENESS OF AUSTRALIA'S MILITARY JUSTICE SYSTEM
BY MAJOR W.E.FARMER**

While any death is regrettable, unnecessary death is criminal. However death of itself is not seen to be the issue at stake for this inquiry. This inquiry will amount to nothing except that it focuses on the systemic issues that gave cause of those deaths.

Any justice system is necessary only as long as conflict exists. Conflict between humans is inevitable. What is important is how that conflict is handled. The underlying values, perceptions and experiences of those involved determine the manner in which it is actually handled. Inevitably, people will only take the 'law' into their own hands if they have lost hope and faith in the applicable 'lawful' judicial system.

In my opinion there are three reasons why soldiers have lost faith in the military system. Those three reasons are:

- a. Broader Australian society no longer upholds a value system based on absolutes. This is relevant as any army is a reflection of the society from which it is drawn. The Australian Army reflects the values of wider Australian society.
- b. Changes within Army have resulted in erosion of the worth of the values of Loyalty, Honesty, Integrity, Moral Courage and Humanity. These have been replaced with self-serving aggrandisement and careerism exhibited in calculated political behaviour that serves the perpetrator alone. No longer is the creed of looking after your equipment, horses, men and self in that order applied. Self is the go!
- c. The preceding two points contribute to the third; an inability or failure of the hierarchy to apply leadership in accordance with the accepted definition—the art of gaining the willing cooperation of individuals or a group to achieve a given aim or task.

Allow me to state at this point that it is my opinion that there is nothing wrong with the procedural or structural organisation of the ADF military justice system. What is wrong is how it is applied or is not applied. This comes down to the personal behaviour of those who are entrusted with the application of the system.

What I am saying is that the Army's greatest strength, its people, is also its greatest weakness. There are many good commanders and leaders. However, there are also many bad ones. One bad apple does not spoil the whole barrel—if it is thrown out. A failure to throw out the bad apple will result in the whole lot going rotten. Organisationally I believe that we are promoting, protecting and encouraging the bad elements.

There is no excuse for anyone within Army to not know what our stated values and stance on certain behaviours is. Comments made by the CA in the Army newspaper of 11 September 2003 are an example of this level of awareness. The CA expressed a strong message that he would be enforcing a zero tolerance policy for unacceptable behaviour at all times. The article was sub titled 'CA puts commanders on notice after suicide'. He was quoted as saying, "I will assess you by your actions." Again he was

quoted, "There is no place within the Australian Army for people who do not believe and live by our Army values, respective codes of conduct and the fair go principles." Towards the end of the article he was again quoted as saying, "I am committed to ensuring that we treat all of our people fairly and with respect, providing them with the opportunity to excel. We must do everything to ensure that circumstances, such as these, never occur again."

I am writing to you to inform you that such circumstances do exist and are encouraged by the very commanders he put on notice. There are also several others with rank, but not necessarily in the chain of command, who do likewise through active complicity, silence or inactivity.

I fully realise the seriousness of the allegation that I have just made, however, I do not withdraw from it.

It is 25 years since I originally joined the Army. During that time I have never made any claim of virtue, infallibility or perfection. In that time I have never resorted to the use of redress or any other form of dispute resolution other than direct dealing with the individual involved, regardless of rank. With one exception I have found this to be a satisfactory course of action until recently. Last year, 2003, a series of events caused me to submit several redresses of grievance in concert with my wife submitting a ministerial. As a result of our treatment, both during the series of events, inclusive of the lead up to them and during their course, and the response to the redresses and ministerial, I have cause to doubt the benefit of the above CA endorsed stance on unacceptable behaviour within Army. If this sort of thing only affected myself it would be bad enough. The reality is that, due to my role, rank and position it affects an entire unit with repercussions across a much larger portion of Army. That is criminal. Worse yet is the fact that I am not the only one in this situation.

Over the past 25 years I have seen an Army based on integrity born of trust being eroded to a point where naked careerist behaviour breeds rampant cynicism. You may treat this as emotional language however, emotion is a human characteristic and has its place. I admit to thoughts ranging from murder to suicide regarding my treatment. That I have not resorted to either course of action is as a result of discipline borne of my Christian faith and avowed values. However, the stress created by the situation I am forced to live in is very real and difficult, not only for myself but also my family. The reality of my life at the moment reveals the hypocrisy of an organisation touting a creed that its people are its greatest asset and therefore matter. Leadership has been killed by pragmatic adherence to political machinations and correctness in order to gain career advancement.

I have followed due process throughout the matter involving myself. Reciprocal consideration has not been given to me. In the meantime, given what has now transpired over the last ten months, I believe that to not bring this to your attention would be an abrogation of my own integrity, an act of cowardice and disloyalty. This, to me, is a matter of principle. As such it must be addressed. I can do no more within the system therefore I leave the matter with you.

That said I am happy to provide to the inquiry the details and substantiation of others affected by my experience, the details of others with similar experience and the

identity of those, who by their actions, are causing distress and suffering to others. While none of this has resulted in any individual committing suicide it has resulted in loss of capability, productivity and efficiency through resignation, reassignment, attitude change and resultant actions. It must be stated that all of those I am referring to are older, experienced and capable personnel. Regardless of their demographic in the organisation or how they handled their circumstances they are people and should not have been treated in the manner. They could have, particularly given stated organisational values and behavioural standards, just as easily adopted the same course of action as those who have suicided.

What must be done to address the problem? In my opinion the answer lies in two areas. The first is that Army, and ultimately Government, stops trying to do the impossible and recognises real limitations. The second is that Army, and ultimately Government, accepts that mistakes and errors will be made but not allow them to be repeated.

The military business is a people business. Technology only aids people in the execution of a function. It does not replace people or make them any more capable than what is allowed by the limitations of human anatomy, physiology, psyche or mental capacity. The thing that will break first is the human link in the chain. It would do many well to remember this fact in the background to the death of all the young people listed in the terms of reference to this inquiry. Physiologically it takes a certain period to develop a person to a required standard of fitness. Similarly it takes a finite period to culturally condition a person to an organisation. Currently we allow neither type of development to occur within anything like the required timeframe. This has been brought about by decision making based on arbitrary factors such as cost rather than human and organisational factors. Again, units are asked to provide capabilities for which they are neither manned nor equipped. If a capability is desired it comes at a cost. Compromise of capability is caused by adjustment based on cost. However, I have yet to see that compromise be accepted by decision makers or those investigating events arising from that compromise. All of this is compounded as the tempo of tasking is increased as it has done over the last several years. The bottom line is that those on the ground must be listened to. They are not saying what they are saying to shirk duty or responsibility, they are saying it because they know what the problems are and want to initiate a solution. It would do many well to remember this fact in the background to the cause of deaths.

At times people will initiate solutions that are not acceptable. This is a fact of life. While the adoption of an unacceptable solution is regrettable it is also an excellent learning medium. What is important is that learning occurs from the experience. Reactions and perceptions of reactions of those in authority that involves a negative and restrictive response will inhibit learning to any event. The most likely result of a negative and restrictive response is erosion of trust, rebellion, sabotage and taking of matters into one's own hand. This is multiplied in effect when superiors protect those responsible in order to protect the 'system'. Any system needing that kind of protection is not a system to be desired or retained. It is of interest to note that my *bete noir* is a player in several such incidents yet he only ever seems to be posted and promoted thereby allowing him to cause further trouble. [REDACTED]

[REDACTED]

As already pointed out the 'system' within Army is considered good. It's only flaw are those individuals who operate for the sole purpose of their advancement within it. The problem is the identification of those 'bad apples'. Application of the following can readily identify and rectify 'bad apples':

- a. Institution of 360 degree performance reporting.
- b. Investigation of the subject, reporting officers and circumstances of adverse and exceptional performance reports.
- c. Promotion based on a range of performance factors relative to attainment of workplace productivity, functional capability and personal competence.
- d. Promotion denial if proven that the individual has abrogated their responsibility in any respect, particularly if passive agreement (yes men), aggression or vindictiveness is involved.

Acceptance of these points is commended. Application of these points will ensure attainment of the cultural change necessary to prevent a waste of life regardless of whether it is through suicide or less dramatic but no less effective methods of loss that inhibit an individual having an opportunity to excel. However, the desired change will also take time.

As I have stated previously the issue is not the system but the resolve and integrity of those responsible within it to live, operate within and enforce those responsibilities entrusted to them. Rank is not issued in recognition of intelligence, capability or popularity; rather it is recognition of an individual's acceptance of a level of responsibility relative to a required level of competence. It is time for us all to live up to the level of responsibility we have **willingly** accepted. In the meantime Army must be big enough to demonstrate its acceptance of responsibility through issuance of apologies, compensation, sacking and administration of discipline as necessary. Justice must not only be done but also be seen to be done.

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Major