

## SENATE INQUIRY INTO EX-SERVICE SUICIDES

### Background

1. Whilst many Nations have formally recognised the unique nature of military service via a Defence Forces Covenant, Australia has yet to do so. As a result, many Australians, especially those in the Australian Public Service, view Defence Forces as civil servants in uniform, comparing their service with that of Police, Emergency, Fire, and Ambulance. Notwithstanding the obvious common features, there are major differences:

a. For sound operational reasons, the ADF has no trade union;

b. Generally, civil Services return home at the end of each shift;

cc. Civil Services have penalty rates, the ADF has no paid overtime; and

cid. ADF duties involve regular long term family separation for specialist training, exercises, and deployments.2. The foregoing not only place stress on the ADF member, these factors also place enormous stress on their families, a fact which is frequently overlooked in such Reviews as the Dec 1992 Auditor-General Report on DVA, and the Baume Report of Mar 1993. In 1992, the Social Security Budget was circa \$ 50 Billion, the media reported record rates of long term civilian unemployed being granted disability pensions, yet the Auditor-General chose to criticise the relatively small \$ 1.4 Billion spend on Veterans and their dependants! This disproportionate criticism prompted the Baume Committee, comprising a Senator/Medical Academic, an Air Vice Marshal with peacetime RAAF operational service, (ie: no exposure to Army or Navy) and nil war service, and a QC whose internet fame is social justice. In short, a Committee with zero War Veteran representation, reviewing Veteran issues! The Auditor-General and Baume Reports are perceived to have had a profound effect upon DVA interpretation of Veteran legislation, making DVA Delegates excessively cautious with Veteran Claims, lest DVA incur further Auditor-General criticism!

cii3. For decades, two principles have applied to Veterans' Claims:

ciiia. Since 1977: benefit of doubt granted to the Veteran; and

civb. By Federal Court decision, circa 1995, interpretation of Veteran Legislation was intended to be beneficial to the Veteran.5. Since circa 1994, experienced Advocates report these principles seem to have been set aside, and the onus of proof appears to be placed upon the Veteran!

cv4. The impact of this DVA approach to claims, which are so often rejected, upon a proud Veteran who believes his/her claim to be just, is profound. Moreover, high unemployment makes Veteran resettlement extremely difficult.

## **Legislation**

5. The current MRCA is needlessly complex, legalistic, and self contradictory. Ch 2, Parts 2 and 3 refer.

8.6. These should be amended to read: 'Liability shall be accepted unless the Commission can demonstrate the claim to be fanciful or fraudulent'

## **9. Statements of Principles**

10.7. The RMA was established by the Labor government of the day to deny the 'reasonable hypothesis' concept linking service to an injury or disease. In practice, unless a Veteran's claim meets the pedantic provisions of the RMA 'SoP', the claim will be rejected. The fallacy of SoP's is proven in the fact that every SoP has been amended. The effect of this upon a Veteran submitting a just claim can be shattering. There are numerous Veterans whose just claims have been rejected as not satisfying some outdated SoP, who are unaware that, later, the relevant SoP has been amended to include their circumstances!

11. 8. Legislation needs to be amended to provide that DVA can accept a Claim not satisfying an SoP provided that a practising, registered, Specialist Physician, Psychiatrist, or Surgeon provides a statement supporting the Veteran's service to an injury or disease.

## **Summary and Recommendations**

11.9. Only an investigation of all suicides can reveal the motives of the tragic victims. However, there is anecdotal evidence that difficulty with what a Veteran perceives to be a just claim aggravates his/her condition. Pride can be a major factor-the refusal to accept, in particular, that a psychiatric disorder exists. Further, not all practising Psychiatrists are skilled in Veteran disorders, typically, the failure of so many patients to express their flashbacks, substance abuse, or other classic symptoms, often makes diagnosis impossible without in depth consultations! Subsequent rejection of a Claim can have a profound effect upon the Veteran!

12.10. DVA has the ability to request further medical/psychiatric examination before rejecting any claim, so this should be made standard practice, especially in psychiatric cases, rather than rejecting the Claim!

13.11. The principles of benefit of doubt and beneficial interpretation of legislation must be reinstated, and the Auditor-General's office advised that these principles are LAW, therefore, DVA decisions based thereupon are LAWFUL and correct!

14.12. Claims outside an SoP, but supported by registered specialist Medical/Psychiatric practitioners should be accepted unless proven fanciful or fraudulent.

