REPORT OF THE COMMISSION OF INQUIRY
INTO THE DEATH OF 8514280 PRIVATE A.A. BAKER
DILI, TIMOR LESTE ON 05 NOVEMBER 2007
PREFACE

The President of the Private A.A. Baker Commission of Inquiry, Mr A.J. Kirkham, AM, RFD, QC, forwarded the Commission’s report to the Appointing Authority, Air Chief Marshall A.G. Houston, AC, AFC, on 23 April 2008. The version here includes a number of minor deletions. Changes are listed in the Table of Amendments.

Material not published

As identified in the Table of amendments there are sections or elements of the report which have not been published. Some material has not been published because publication would be an unreasonable disclosure of sensitive personal information. These parts are not material to the findings or recommendations in the report. Where there are multiple amendments within a paragraph, the number will follow the paragraph number in parentheses.

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REPORT OF COMMISSION OF INQUIRY INTO THE DEATH
OF 8514280 PRIVATE A.A. BAKER
DILI, TIMOR LESTE ON 05 NOVEMBER 2007

Appointment of Commission of Inquiry

1. On 09 November 2007 Air Chief Marshal A.G. Houston AO AFC, Chief of the Defence Force (CDF), by instrument of appointment appointed a Commission of Inquiry (the COI) constituted to inquire into the circumstances surrounding the death of 8514280 Private Ashley Arthur Baker (the deceased) in accordance with the instrument of appointment and the associated terms of reference (TOR) – copy of Appointment Exhibit 1.

The COI's TOR

2. The TOR require the COI to obtain evidence and provide CDF with a report detailing with reasons the finding of the COI with respect to:

(a) the circumstances surrounding the death of the deceased, including without restricting the generality thereof –

   (i) the date and place of the death;

   (ii) the manner and cause of the death; and

   (iii) any facts and circumstances establishing that the death arose out of, or in the course of, his service in the Army;

(b) the sufficiency of any actions and decisions taken by Defence personnel which were materially relevant to the deceased’s death, both prior and subsequent thereto.
(c) any weakness or deficiencies (isolated or systemic) in Defence systems, policies, equipment, practices, procedures and training proximately associated with the deceased's death – copy of TOR, Exhibit 2.

3. The TOR do not on their face require any finding/speculation as to what motivated the deceased to take his own life (which the COI has found occurred) and in the absence of any note or reasonably contemporaneous statement by the deceased such a finding would essentially be speculative. There could be any number of causes operating alone or in conjunction or a cause or causes unidentified by the evidence obtained in the course of the Inquiry.

4. I consider that paragraphs 3(b) and (c) of the TOR contemplate identification of any evidence tending to show in a material way that some act(s) or omission(s) in Australian Defence Force (ADF) procedures or on the part of ADF personnel caused or contributed to the deceased’s death which act(s) or omission(s) could and should have been identified by ADF and properly dealt with. Such identification is implicit in paragraph 4(a) of the TOR which contemplates rectification of any identified fault found pursuant to paragraph 3(b) and (c).

COI’s Investigations

5. The COI received evidence from a total of 116 witnesses many in Affidavit and statement form. In addition the COI received into evidence 104 exhibits. Document Audits were conducted in order to obtain all documentation relevant to the COI’s TOR.
6. The COI sat in open session at Robertson Barracks Darwin during the period 10 - 18 March 2008 when Colonel M. Griffin and Lieutenant J. Nottle RAN appeared as Counsel Assisting the COI and Major D. Campbell SC appeared on behalf of the family of the deceased.

7. An application made by Major Campbell SC for the proceedings to be heard in private was refused – refer transcript pages 8 – 20.

Scope of the COI’s Inquiries

8. The COI has utilised evidence obtained by the Australian Defence Force Investigation Service (ADFIS), the Australian Federal Police (AFP) and the Queensland Police Service (QPS) (acting on behalf of the Queensland Coroner) to establish the facts and circumstances relevant to the areas of inquiry delineated by its TOR.

9. Whilst the COI is not bound by the rules of evidence, its findings are based on the civil standard of proof, namely the balance of probabilities, and, where appropriate the Briginshaw standard – refer Briginshaw v Briginshaw (1938) 60 CLR 336 at 361 and Anderson v Blashi [1993] 2 VR 89 at 96.

10. Given the number of witnesses from whom evidence was received it is not surprising that their individual observations, interpretations and assessments concerning the deceased’s character, attitudes, appearances, temperament, actions, reactions and behaviour generally varied in some respects.

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11. There was however for the most part such a commonality in the observations and assessments of those persons in respect of matters of significance that, unless indicated to the contrary, the COI has accepted the preponderance of evidence relating to the deceased’s various characteristics referred to in the preceding paragraph hereof, and has relied on it in making its findings.

12. Having regard to paragraph 3 hereof, whilst certain incidents proximate to the deceased’s death have been commented upon which may have adversely affected him emotionally and which were thus taken into account by the COI in its findings as to the cause of death, the COI has not, for the reasons earlier stated, sought to find whether such incidents alone or in conjunction with others motivated the deceased to take his own life.

OUTLINE OF EVIDENCE

13. The outline of evidence reproduces as far as possible the actual words, manner and form in which such evidence was given whether in the form of a Record of Interview (ROI), a statement or orally during the inquiry, but quotation marks have not been used to distinguish direct speech from those instances where the evidence has been paraphrased or otherwise reduced to a more concise form.

The deceased’s Home Life and Schooling
14. The deceased was born at Gladstone on 02 November 1988. He was one of two children of Ian Albert Baker and Kyley Jane Baker, the other child being his older sister, Sylvia Tamara Lola Baker.

15. He attended State Primary School and then State High School where in 2005 he completed Year 12 aged 17. During Years 10 and 11 the deceased served for 18 months as an Australian Army Cadet.

16. The deceased’s education records indicate that he was an average student who was noted to lack motivation in certain subject areas. In addition the records note that in 2004 he informed his school counsellor that in year 10 (2003) he had contemplated taking his own life using a rifle to which he had access as a consequence of his service with the Australian Army Cadets. There is no apparent record of any follow up action on this disclosure.

17. The evidence given by the deceased’s sister indicates that her relationship with the deceased during his teenage years, and later when he was in the Army, was distant. The evidence given by his parents was that from the time the deceased turned 14 he developed what was described as a teenage attitude, leading to conflict with his parents and eventually to his moving out of his parents’ home for about 10 weeks in April to July 2004 and staying with a Mr. and Mrs. in However, whilst he was away from home his parents kept in contact with him.

18. Whilst the deceased was staying with the he was in receipt of Living Away from Home Payments from Centrelink and engaged in counselling arranged by Centrelink. When
those payments ceased on or about July 2004 the deceased moved back into his parents’ house. Centrelink counselling records indicate little of significance as to the deceased’s state of mind during this period although noting that he felt his relationship with his parents had somewhat improved.

19. After returning home the deceased settled down to some extent, although some tensions between himself and his parents remained.

20. Evidence from the members of the deceased’s family indicated that the deceased was generally a quiet and very private person who nonetheless enjoyed going out to parties and enjoyed and attracted female company. He did not discuss his girlfriends with his parents, explaining that it was his private life and that they did not need to know about it. He was conscious of money management and apparently had no financial problems. On occasions he described plans that he had for his future financial security. He was described by his mother as a strong personality and by his father as being not easily led. He apparently had no religious beliefs and told his father that he was an atheist. Both his parents describe him as being interested in joining the Army from an early age and his seeing his joining the Army as an opportunity to commence an apprenticeship and further, providing many choices or opportunities in terms of his career path.

21. Immediately prior to his applying to join the Army, the deceased was in an intimate relationship with fellow-students at each had known the other since Grade 10 (2003) as High School. They became boyfriend and girlfriend to the
exclusion of others near the end of 2004. This was apparently the first serious relationship the deceased had experienced.

22. Miss describes the deceased at that time as being a person who if he believed something was not fair would get a bit aggressive and angry. Her evidence was that he said he got angry with his parents and argued with them but that he did not discuss why he was arguing with them. She describes him as being driven by money noting that when he got money he hung onto it. She noted that he worked at a number of part time jobs but did not hold onto jobs for long and would leave a job if it wasn’t the job he wanted to do.

23. Miss states that their association ceased when he was posted to Townsville as she was not at that stage prepared to follow him and live in Townsville. She said that after he joined the Army they kept in touch and that she was supportive of him during his training at Kapooka and Singleton.

The deceased’s application to join ADF

24. On 02 September 2005 the deceased was interviewed in respect of his application to join the Australian Regular Army (Army). He was then aged 16 years and 10 months. A psychological assessment of the deceased had been conducted on the same day by Ms Carolyn Ireland nee Marchingo. In the course of such assessment the deceased denied that he suffered or had suffered from any mental health problems, or had ever had any thoughts of self harm or suicide, or experienced any recent life crisis, or engaged in drug use. The record of such assessment reflects a questioning on the part of the psychologist of the deceased’s motivation
for joining the Army. The record further reflects the deceased’s assertion that he did not let things get to him. Whilst the psychologist assessed the deceased as psychologically suitable to join ADF she recommended that his application be adjourned for 12 months to allow him to mature.

25. After the psychological testing the deceased was interviewed by a Defence Interviewer (DI). The DI noted that the deceased’s primary motivation to join ADF was pay and rejected the deceased’s assertion that he had wanted to join the Army since he was small. He thought this assertion was inconsistent with the absence of preparation and the immaturity that he observed in the deceased’s presentation of his application. He considered that the deceased was too immature to join the Army and recommended that he reapply in six months time. He was entitled in his position as DI to reject the psychologist’s recommendation of one year’s adjournment.

26. The deceased did reapply on 10 March 2006. There was no further psychological assessment made of him at that time because the initial assessment remained valid for twelve months. The DI noted that he observed the deceased on this occasion to exhibit a more mature attitude, consistent, he felt, with the deceased having done six months in the workforce and having assumed some financial responsibilities. The DI noted Appears quite driven towards R.F.N. so will give him the benefit of the doubt and recommend as a A.R.A. R.F.N. (343) F.T. (i.e. a rifleman).

27. Following the acceptance of his application the deceased enlisted in the Army on 01 May 2006 and commenced training, first at Army Recruit Training Centre (ARTC) at Kapooka
from 02 May 2006 to July 2006, then Infantry Initial Employment Training (IET) at School of Infantry, Singleton from 01 August 2006 to 10 November 2006 and was then sent to Townsville in mid-November 2006 eventually joining 4 Section 5 Platoon, B Company, Second Battalion Royal Australian Regiment (2 RAR).

Deceased’s Army Training

ARTC at Kapooka

28. During his time at Kapooka, the deceased found the physical aspects of basic training demanding and on occasion failed fitness tests. He was noted to be lacking in motivation and attention to detail and initially received generally poor performance appraisals.

29. He was also involved in a series of comparatively minor breaches of discipline and spoken to regarding his disobedience of orders. He exhibited a lack of concern when he was dealt with for these minor breaches of discipline.

30. However, he persevered with his training and, ultimately, by July 2006, his platoon commander had formed the view that, if there was an award for the most improved recruit, it would have been given to the deceased. On 29 July 2006 his platoon commander’s notebook performance appraisal rated him as very good. His final assessment prior to graduating was that he had approached the course with an indifferent attitude but adapted steadily. It was noted further that he worked hard as a member of a team but could better contribute.

31. During the course the deceased applied for a corps transfer out of infantry on the basis that he was not physically or emotionally strong enough to be in that corps. This application was
initially returned to the deceased because the supporting documentation was incorrectly filled out. The application was later resubmitted but, due to the deceased being transferred to another platoon, following his failing a fitness test and being backsquadded, it was initially overlooked. However on his transfer to the Digger James rehabilitation platoon, the application came to the attention of the new platoon staff. His platoon commander discussed it with him and the deceased indicated in that discussion that he was reconsidering his application due to improvement in his fitness. No evidence emerged to indicate the outcome of such reconsideration until the deceased’s initial interview at Singleton.

IET School of Infantry at Singleton

32. After he had graduated from Kapooka and had moved to Singleton for infantry training, the deceased told his platoon commander in his initial interview that he:

- joined the Army, for a long-time career,
- wanted to go into infantry, (specifically 5/7 RAR),
- did not make any applications at ARTC,
- did not feel like committing self harm at ARTC,
- did not suffer from a psychological condition such as depression,
- did not have any personal problems that meant he was finding it hard to cope, and
- expected that, being a soldier he would lead a basic soldier’s life.
33. The deceased’s progress through IET was similar to his progress through ARTC. His minor breaches of discipline continued. His platoon commanders’ notebooks rate his performance as ranging between satisfactory and poor. These notebooks reflect that the deceased was disciplined for insubordinate behaviour and had a reputation amongst platoon staff for using minimum effort and was regarded as needing to significantly improve his standard of soldiering and attitude. However other entries indicate that he responded to instruction well and was accepted by his peers on a personal and professional level. As at ARTC his performance fluctuated. He continued to have difficulty meeting the physical requirements and was ultimately backsquaded and placed in a rehabilitation platoon for failing his combat fitness assessment test.

34. His attitude in respect of penalties incurred for breaches of discipline remained unchanged and he exhibited the same outwardly unconcerned attitude when he was disciplined. He had a laid back approach and accepted punishment without remorse. It was said of him he never really got down about it (punishment) didn’t really give a stuff just if you get in trouble you get in trouble.

35. Statements from fellow soldiers at this time indicate that despite an antipathy between the deceased and his platoon sergeant he was never picked on or bastardised. He was seen to be not a happy member of ADF while remaining personally happy. He continued to speak of getting out of infantry. He rarely volunteered for jobs but would do without complaint any
job he was tasked to do. It was said of him that he liked the Army but not it's associated
rules and that he was always involved in work activities but sometimes did not give his all.

36. He was seen as a quiet person who mostly kept to himself apart from liaising with a few close
friends. He drank heavily when he was out socialising. He was under pressure from his
superiors to become more motivated so as to achieve his potential. As at ARTC the deceased
did persevere and ultimately passed out of IET on 10 November 2006.

Townsville

37. The deceased marched into 2 RAR in mid November 2006. In mid December 2006 Privates
Hodgekiss, Underwood and Nevin went to the deceased’s room following a drinking session
on base to check on the deceased’s condition. They found the deceased’s room had been
trashed, the bed had been overturned and the mattress slashed. There was broken glass
everywhere. Written several times on the walls of the deceased’s room in shaving cream
were the words I kill Baxter (Baxter being a nickname of the deceased) or Die Baxter Die.
Prior to this incident Nevin, Hodgekiss and Underwood had received Suicide Awareness
training.

38. Private Underwood said that following this incident he asked the deceased What’s all that
about? and the deceased replied that he didn’t remember doing it. Private Underwood said
that he told the deceased he (the deceased) had some issues and sat him down and talked about
it, and recommended that he see a Padre or somebody if he did have issues. He said the
deceased brushed it off as something that occurred when he was intoxicated. He said he told
the deceased to have a yarn with any of his friends if he wanted to. He could not recall
noting any indications that the deceased may have been contemplating suicide. He described
the incident as a one off and put it down to the deceased’s intoxication. He said that after
this incident the deceased did not appear changed in any way. He said that he had several in
depth conversations with the deceased following this incident and noted nothing in his
conversations or behaviour to indicate any suicidal ideation.

39. Private Hodgekiss spoke about this incident to the deceased the next day. He said that the
deceased passed the incident off as occurring when he was drunk, and he said he could not
recall the incidents of the evening. He denied having any troubles and did not appear changed
in any way following the incident. Private Hodgekiss said he did not consider at that time
that the deceased was a suicide risk.

40. Private Nevin said he spoke to the deceased following this incident and the deceased had no
recollecation of what had occurred. He said that the deceased had seemed embarrassed by the
incident following it happening but that he did not seem to act differently or seem more
unhappy or depressed after it had occurred. He said that if the deceased had been acting
differently or strangely he would have spoken to Hodgekiss about what to do but that the
deceased didn’t seem anything but his usual self after the incident. He said that if this had
been a regular occurrence he would have been more worried. He said, however, that it was
an isolated incident and the deceased never gave him the impression that he would hurt
himself. He said he believed that he and the other two were close to the deceased and that if
anything was concerning the deceased he would have spoken to one or all of his three friends.
He said, however, that the deceased did not speak of the incident and laughed it off as having occurred when he was drunk.

41. On another occasion in June or July 2007 the deceased said to Private Grinstead (who said that the deceased was one of his great mates) Why bother going AWOL. The effort of going to it and all the ties involved, it would be a lot easier to kill myself and get out. Private Grinstead who had received Suicide Awareness training considered that the words were said in general conversation and said Everyone talks about stuff like that. For example I don’t want to go on this pack march I think I will kill myself instead. In evidence he said that the way the words were spoken was not in a manner that would express the deceased wanted to kill himself. It was, he said, just a generalisation and did not represent serious intent to commit suicide. He said plenty of other people said the same sort of thing. In oral evidence he said he thought nothing of the conversation. He said he had done Suicide Awareness training and that the deceased showed none of the telltale signs of intending suicide.

42. He said further that the deceased never reported that he was victimised or bastardised or picked on by unit members or his superiors. He said the section commander wanted the deceased to take himself more seriously but that the deceased did not want to work. He said he had no contact with the deceased in TL.

43. During the deceased’s time in Townsville his platoon commanders’ note books reflect the fact that the deceased was rated between satisfactory and good. His continuing lack of motivation was noted. He was noted to have shown some good progress particularly in field
exercises when he advised his platoon and company commanders that he felt outstanding and absolutely stupendous.

44. An entry in the platoon commanders’ notebooks dated 05 July 2007 records that the deceased had achieved a good overall performance but noted that he needed to get motivated and that if he did not, he would bring the morale of his peers down. In August 2007 it was further noted that he expressed satisfaction that he was no longer the worst soldier in the platoon.

45. An entry dated 11 September 2007 (his last platoon commander’s notebook report for this period) records that the deceased showed sound performance but lacked motivation. The entry further records that throughout the year the deceased had been causing problems with his personal administration by turning up late or intoxicated during first parades. Sergeant Sharpe, the deceased’s platoon sergeant, said in evidence that he spoke to the deceased a good eight or nine times regarding alcohol related matters during this period and gave as an example the deceased turning up late for parade.

46. The deceased was ultimately charged with being absent without leave for failing to turn up at a first parade in August 2007 but due to his deployment to TL in September 2007 this charge was heard and determined while he was in TL. It was heard on 25 October 2007 when the deceased was awarded a punishment of five days restriction of privileges (ROP’s ).

47. Prior to deployment to TL the deceased and all other members of his unit received a mandatory pre-deployment Mental Health briefing by the Psychology Support Section, Townsville. In addition, he and other members of his platoon were also spoken to by the
platoon commander, Lieutenant Russell, who advised them to seek immediate assistance and support in the event they felt suicidal and to speak to himself or Sergeant Sharpe who would always find time for them and work around any problems they may be experiencing. During 2006 – 2007 the deceased received Suicide Awareness training on 16 June and 23 June 2006 and on 05 February 2007. He attended Mental Health Awareness training on 05 February 2007. This training was mandatory for Army members.

Deceased’s Deployment to TL

48. On 30 September 2007 the deceased as part of Timor Leste Battle Group 3 (TLBG-3) deployed to TL and was located at the Helicopter Point of Departure (HPOD), Dili. He spoke to his parents before deployment and his mother thought he seemed excited to be going to TL.

49. The preponderance of evidence from his platoon commander, non-commissioned officers (NCOs) and fellow soldiers in his section in TL was that the deceased was not well suited to soldiering and or infantry. He was commonly perceived to be lacking in the motivation necessary to become an efficient infantryman. All of these persons, save Private Hanson who was unwell and unable to be interviewed by Counsel Assisting or attend the COI hearings, gave sworn testimony to the COI and were examined by Counsel appearing on behalf of the deceased’s family.

50. Lieutenant Russell considered that the deceased was poorly motivated as far as his personal standards and personal outlook went, although he seemed to enjoy the forced teamwork of the
Army. He said the deceased did not seem to want to change no matter how hard his superiors tried to rectify his lack of motivation. He said the deceased had more potential than he used to display but did not reach such potential because of his lack of motivation.

51. Sergeant Sharpe considered that the deceased knew the right thing to do but did not always do it and that his lack of proficiency was plain laziness at times. He said that the deceased was always in trouble and always doing retraining with the platoon. He said the deceased was not happy in the infantry and that this was reflected in his attitude and approach to work. He said that generally the deceased was not suited to infantry. He categorised the deceased’s misconduct as very minor soldierly type sloppiness.

52. Corporal Donaire said the deceased showed very low enthusiasm and low motivation from his second month in the battalion. He said that the deceased did not really care. He said that the deceased needed to improve his soldier skills but did not improve with counselling. He said the deceased showed no interest in the Army and was not the Army type. He said the deceased’s behaviour was not exceptionally out of the ordinary for a 19 year old and other than a few problems he was well liked within the platoon.

53. Lance Corporal Stanley said the deceased did not try to get out of work but was unmotivated. He said that he had trouble getting started but once started finished the tasks allotted him. He said that he discussed this attitude with the deceased, pointing out his potential for improvement if he changed his attitude. He said that following these talks the deceased would start to pick up and then drop off again. He said that the deceased was not a self starter. Other members of
the deceased's section gave evidence similar to that given by the platoon commander and the three NCOs.

54. As a consequence of his attitude the deceased, as previously mentioned, was often punished for minor infractions prior to deploying to TL. It is a matter of some significance that his platoon commander, his NCOs and his fellow soldiers were unanimous in stating that he was apparently untroubled by the imposition of the various punishments and simply dealt with them, essentially without significant complaint, beyond an initial or subsequent grumble.

55. Lieutenant Russell said that the deceased's reaction to disciplinary offences was to shrug them off. Sergeant Sharpe said that the imposition of the punishment of ROPs (refer paragraph 46 hereof) didn't seem to faze him and that not a lot ever seemed to faze him. Private Garrad said that punishments didn't faze the deceased and that if he got into trouble he'd cop it on the chin. Private Hanson said that with charges the deceased just copped it and dealt with the hit and couldn't care less. Corporal Donaire said the deceased didn't seem to care or complain about punishments which were given to him and that after being punished he would commit the same offence again. Private Von Hoff said that the deceased always took his punishment and handled it really well. Lance Corporal Stanley said that when the deceased was punished he was initially argumentative and questioned it and then accepted it and then shrugged it off and completed his duties. Private Moodie said that the deceased took punishments normally and without complaint.

56. Despite the punishments for the various infractions the deceased's attitude remained unchanged. Whilst he did not seek to avoid any work related activities and once engaged in
any work activities always completed them, he continued to lack motivation and continued to make mistakes.

57. Lieutenant Russell said that the deceased wasn’t a very successful soldier as far as personal skills and drills went, but he stuck at it and showed potential on a regular basis. Sergeant Sharpe said he was never a star performer as a soldier, but did have some quite bright moments where he performed quite well. He said in evidence that there was no doubt the deceased was quite capable in the field where he was not too bad at his job at all and that given time he would have turned into a very good bush soldier. Private Von Hoff said the deceased wasn’t a lazy person he just stuffed up. Lance Corporal Stanley said the deceased’s general approach to work was pretty much unmotivated although he was not really trying to get out of work. He was mostly good at what he was tasked to do but had trouble getting started. Once he was in there he would finish the tasks. Private Clifton said he did not know of any occasion when the deceased tried to get out of anything and Private Moodie said that the deceased was not into PT at all and said it was the last thing he wanted to do, but he wasn’t complaining, you know, he always did PT.

58. There was evidence that the deceased’s lack of motivation was a source of some irritation within his section with a number of complaints made to the effect that he needed to start pulling his weight. There was apparently only one member of his section (Private Hanson) who displayed any overt antagonism which on the evidence was returned by the deceased. Such antagonism, whilst it resulted in some arguments, never led to any physical violence.
59. As aforesaid the evidence indicated that the deceased apparently suffered no or no significant upset following the imposition of minor punishments. No witness heard him complain that he suffered harassment or bullying within the ADF. To the contrary all of the evidence indicates that he was not harassed or bullied or singled out or picked on during his time in the ADF. Rather he was punished in respect of a series of minor infractions in a manner designed to improve his performance as a soldier. Such punishments did not differ in any way to punishments imposed upon his fellow soldiers for similar infractions.

Days preceding the deceased’s death on 05 November 2007

60. In the days preceding his death on 05 November 2007 certain incidents of possible significance occurred in respect of the deceased.

61. The ROPs awarded as punishment to the deceased on 25 October 2007 (refer paragraph 46 hereof) ceased on 29 October 2007. Evidence was given that there were no further punishments involving physical exertion and there was no reason for the deceased to feel more fatigued than any other section members in the week preceding his death.

62. On 02 November 2007 it was the deceased’s 19th birthday. The members of his section were unanimous in stating that he did not receive any personal mail or parcels on or subsequent to his birthday. His section second in command (2IC), Lance Corporal Stanley, had in fact arranged for him to receive a parcel from Australia but that had not arrived prior to the deceased’s death. He was wished a happy birthday by members of the section and by Lieutenant Russell. He did not appear unhappy on his birthday but did comment that it was
crap having a birthday in TL. Private Putman, (a close friend of the deceased) who spoke with
the deceased by telephone on his birthday described the deceased as being as happy as he had
heard him in a long time. He said there was nothing negative said by the deceased regarding
TL, and that his demeanour was normal and positive and that there was no indication that he
was upset or troubled.

63. It should be noted that evidence given by his parents, supported by documentation, indicated
plainly that the deceased did receive personal mail from his family and friends, in the form of
electronic communication, for his birthday. Evidence further indicated that his father gave him
a birthday present of money in advance of his birthday. The evidence indicated an ongoing
family relationship between the deceased and his parents at this time.

64. On 03 November 2007 the deceased was required to apologise to Corporal Muschalla who had
reported the deceased towards the end of October 2007 for ignoring the requirement that
members of TLBG-3 wear long sleeves between the hours of 1800 – 0600. The deceased was
punished for this infraction by being required to wear long sleeves during the day for the next 5
days. He apparently called Corporal Muschalla a fuck head behind the Corporal’s back. The
evidence of Corporal Muschalla was that the deceased apologised to him and he accepted the
apology and there appeared to be no ill-feeling.

65. The evidence indicates that on 03 November 2007 the deceased attended a further Army Mental
Health Awareness lecture during which ADF members were advised that in addition to being
able to receive assistance from the ADF psychology services, they could speak in confidence
with non-military personnel at Aspen Medical Centre in TL about any problems they may have had.

66. On the evening of 03 November 2007 the deceased's section patrolled late, getting in at about 0100 hours on 04 November 2007. Members of the patrol were joking amongst themselves about Christmas and Private Clifton noted that he, Private Von Hoff and the deceased were talking together, and the deceased seemed as happy as. There was a discussion between Private Moodie and the deceased on this night during which the deceased told Private Moodie of his plans for celebrating his return from deployment when he got back to Townsville.

67. Private Von Hoff said that the deceased had told him on the evening of 04 November 2007 that he had been with a girl for two years and she broke up with him because of the Army and he regretted this. He told Private Von Hoff that he went home on pre-deployment leave for three days and found that the girl and her new boyfriend were living together which caused him unhappiness. This was the first time that he had spoken to Private Von Hoff about such a matter. After this conversation Private Von Hoff said that the deceased seemed pretty depressed and down about it. He said that he had never really heard the deceased talk like that previously and he tried to cheer him up. He said that they both watched a movie on his laptop in his quarters and by the end of it the deceased had cheered up. He appeared to be his normal self by 0030 hours on 05 November 2007.

68. The deceased had earlier on this evening been playing poker with several people from the platoon, including Sergeant Sharpe who said he saw nothing untoward about the deceased's demeanour at this time.
69. Private Wilcoxson and Private Moodie said that on 04 November 2007 the deceased outlined his plans for celebrating his return to Townsville after his deployment to TL. Private Moodie said that on this occasion the deceased appeared good and pretty happy.

70. During 03 – 04 November 2007 Lieutenant Russell spoke to the deceased greeting him and asking him how he was to which the deceased replied, Good Boss, or Good Sir.

71. On the night of 04/05 November 2007 the deceased left his rifle in a rack in the platoon, administration and recreation area, contrary to the order of the platoon commander. Lieutenant Russell had made an order that while platoon members were moving in and around Bravo company area, weapons could remain at the platoon location as long as they were picketed. However, at night time because no one could be assured to be in the platoon area, all equipment and all controlled stores including body armour and helmet were to be held by platoon members in their accommodation. Officer Commanding (OC) Bravo Company, Major Niessl said in evidence that at this time the platoon was operating in an environment of real and potential threat of attack and danger. It was plain from the evidence given that failure to secure a rifle in such circumstances had potentially serious consequences for the deceased and his fellow soldiers. TLBG-3’s standing orders at this time required that rifles be kept in the Unload condition, i.e. the loaded magazine was to be kept separate from the rifle, within the HPOD area.

05 November 2007
At about 0900 hours Corporal Stewart, the section commander of 5 Section, was notified by Private Garrad of 4 Section that a rifle had been left in the rifle rack in the platoon area overnight. Corporal Stewart checked 5 Section’s records and noted it did not belong to 5 Section. He handed the rifle to Sergeant Sharpe and told Private Garrad to find out who was missing the rifle. On inquiry Private Garrad ascertained from the deceased that it was his rifle that had been left out overnight. Private Garrad’s evidence was that the deceased woke up and looked under his bed and said Oh shit. Private Garrad said that the deceased gave him the impression that he knew he had stuffed up again. The deceased then went down and spoke to Sergeant Sharpe who sent him away with orders to return after Sergeant Sharpe had completed his morning routine. Sergeant Sharpe said that the deceased appeared a bit timid because he knew he was in the shit but otherwise seemed normal.

After he had completed his morning routine Sergeant Sharpe called the deceased into his accommodation and spoke to him again at which point the deceased advised him that he had left his rifle out in the platoon area overnight. Present at this time were Lieutenant Russell and Corporal Stewart. Sergeant Sharpe braced the deceased, spoke to him in an authoritative tone and said words to the effect of I’m sick of this shit. You’re always fucking up. I want you to keep your weapon on you at all times until I inform you further. Be aware disciplinary action may be taken against you. Sergeant Sharpe then pushed the deceased’s rifle at him placing it onto the deceased’s chest but without sufficient force to push the deceased off balance and told him to Get the fuck out. Sergeant Sharpe noticed nothing unusual in the deceased’s response. He said the deceased didn’t appear to be emotional and his attitude didn’t really change and that the deceased had just nodded and said Yes Sergeant and left the accommodation. He said
he had spoken to the deceased in a similar manner following earlier infractions and that the deceased's response on this occasion was no different to the responses he exhibited on the earlier occasions.

74. After being spoken to, the deceased left Sergeant Sharpe's accommodation and went back to the platoon recreational area where he was seen to sit down and commence smoking. Private Garrad said that after speaking with Sergeant Sharpe the deceased seemed his normal self. Private Von Hoff said that sometime after 1000 hours he was with the deceased in the smoking tent. He said the deceased looked like a person who had got into trouble. Private Von Hoff asked how he went with the Sergeant and the deceased said Pretty shit but made a joke about it saying At least I wasn't pissed. Private Von Hoff stayed for a short time and then left the deceased by himself. He said that when he left the deceased he noted that the deceased had his head down and looked as if he was thinking about something. Private Hanson noted the deceased was a bit quiet after speaking to Sergeant Sharp but noted there was nothing in his attitude different from that shown by anyone else getting into trouble. Evidence indicated that the deceased did not look up as various members passed him when leaving the recreation area. It was noted that he had his head down and was smoking. Private Garrad said that in retrospect the deceased did not look brilliant. The deceased apparently did not look at anyone as they were leaving the area.

75. The deceased continued sitting in the smoking area until about 1120 - 1130 hours when people started getting ready to go to lunch at about 1130 hours. At about 1120 - 1130 hours the deceased was seen to leave the smoking area and proceed in the direction of the SAL block
which was about 25 metres away. Most people had left the area at that time but Private Garrad was still there. He believed he was talking to Privates Townsley and Hanson at that time. He said that when the deceased walked past he had his head down and didn’t look at anyone. Private Hanson said that the deceased walked in the direction of the SAL block but said that he didn’t notice much else.

76. Private Hanson estimated that no more than five to seven minutes passed between when the deceased passed him and he heard two to three shots of automatic rifle fire. Guard Post Pickets recorded the time the shots were heard as 1143 hours. Private Garrad didn’t immediately recognise the sound as gun shots but Private Hanson did. Private Hanson and Private Garrad, who at that stage was in his accommodation, seized their rifles and ran towards the area where the shots apparently came from which appeared to be the north west corner of the compound in the area of the SAL block. Private Hanson ran past the SAL block and checked the north west corner area of the compound for about 10 to 15 seconds. He saw no person in the area behind the SAL block and only a lady and some children beyond the HPOD perimeter security fence. He noted that no one beyond the wire fence was running and hiding and that all were looking his way. Private Wilcoxson who shared accommodation with Private Hanson, and who left his accommodation after Hanson had run out of it following hearing the shots, checked the wire fence area with Private Hanson and also noted nothing of significance beyond the wire fence.

77. While Private Hanson ran past the SAL block, Private Garrad, acting on an instinct, entered it. In oral evidence he estimated that from the time he heard the shots to the time he had the SAL block in view was 30 seconds. Whilst he was running towards the SAL block he saw nobody
come from, or in the vicinity of, the SAL block. In his statement he estimated that 20 seconds passed from the time the shots occurred to his entering the SAL block. In either event it was a short period of time. When he did enter the SAL block he said he could smell blood and gunpowder and observed smoke, associated with rifle shots, present in the area. He observed that the deceased was in the last cubicle next to the back wall with his head sticking out from under the door which was closed. The deceased was in a foetal position on his left side.

Private Hanson arrived at the SAL block not long after Private Garrad and also observed the deceased in this position.

78. Thereafter a number of people rapidly approached the SAL block but initially the only people to enter the SAL block were Corporal McMahon and his Combat First Aider (CFA) being Private Pitt. Subsequently the Company Sergeant Major (CSM) also entered the SAL block. The evidence indicated that no person entered the SAL block to the extent of interfering with the subsequent forensic examinations. Doctors Huettl and Bell also attended the scene. Both Doctors entered the SAL block where Doctor Huettl pronounced the deceased's life extinct. An initial request to the Aspen Medical Centre for an ambulance to attend the incident scene was cancelled when it was ascertained that the deceased was dead. Later at about 1750 hours that day Dr. Huettl identified the deceased using the deceased's official passport.

Securing of Scene and Investigations

79. Flight Sergeant Richards and Corporal Lewis were the ADFIS investigators who attended the incident scene. They travelled in vehicle convoy with the Critical Incident Mental Health Support team from Camp Phoenix to the HPOD approximately 40 minutes after notification of
the incident. Flight Sergeant Richards said that from her initial assessment of the scene, the ADF mandatory training on incident scene initial action and preservation (REACT) appeared to have been utilised and had been effective. She said there was no evidence of any interference with the incident scene at all.

80. Flight Sergeant Richards and Corporal Lewis established an incident scene and took appropriate forensic measures to gather evidence. The door to cubicle 3 had been locked from the inside and Corporal Lewis was only able to open it by means of using a broom handle to move the inside lock. It was noted at this time that the deceased's clothing was not disarranged. They compiled a photographic record and inventoried the relevant evidence. Three expended cartridge cases were found in close proximity to the deceased's body. A rifle between his legs was photographed then removed and made safe. A live round was ejected from the rifle chamber in this process. The serial number located on three parts of the rifle was checked against the Q store weapons issue sheet and found to match the serial number of the F88 Steyr rifle issued to the deceased.

81. The incident scene, rifle and other evidence was preserved free of contamination awaiting the arrival of AFP forensic examiners. These examiners conducted further examinations of the incident scene including an examination of the SAL block ceiling and roof in the area above cubicle 3, and an examination of the body of the deceased. They also made a further photographic record of the incident scene and items of evidence. All evidence collected was preserved and delivered by ADFIS under personal supervision to Queensland Health Scientific
Services John Tonge Centre, Brisbane for post-mortem examination and further forensic testing.

82. At the conclusion of its hearings the COI decided, having considered the forensic evidence and having obtained the agreement of AFP, QPS and the deceased’s family, to approve a request from TLBG-3 for the release and destruction of the SAL block that had been severely contaminated by the incident and presented a health hazard.

Forensic Evidence

**AFP Investigations**

83. Between 09 and 11 November 2007 Ms A. Dodsworth, a forensic examiner with the Australian Federal Police, conducted an examination of the scene of the deceased’s death. She also examined all collected exhibits and the deceased’s body.

84. Her report of her observations, examinations and conclusions is **Exhibit 43**. Her conclusions are set out at page 12 of her report. She said in evidence that her investigation indicated that no other party was involved in the deceased’s death. She said that the direction of the projectiles fired was consistent with a person seated on the toilet seat in cubicle 3 firing in an upwards direction at an angle of 10 degrees to the perpendicular. She said the direction of the blood sprays was also upward. Given the direction of the projectiles and blood sprays and the absence of any projectile damage in the lower area of the cubicle, she discounted the possibility of any third party inflicting injury on the deceased from a position above him.
85. She said that if another person as well as the deceased had been in the cubicle at the time of the incident or in a position on the floor area in front of the cubicle and reaching into the cubicle there would have been a shadowing effect in the blood staining within and around the cubicle to indicate this and also interference with the pooling of the blood but there were no such signs. She said that a person seeking to fire at the deceased by reaching under the cubicle door from outside the cubicle would be unlikely to be able to fire shots at an angle of 10 degrees to the perpendicular which was the direction of projectiles that she observed in her investigations.

86. She said that the absence of blood stains on the inner area of the deceased’s hands indicated that they were covered or closed at the time that the deceased’s injuries occurred and were not exposed to blood sprays. She said the presence of soot particles on the deceased’s left thenar eminence was consistent with him holding the weapon with his left hand at a point near the muzzle of the rifle when it fired. She said the holes in the ceiling were caused by some form of projectile (ammunition or bone fragments) and were consistent with having been caused by the one incident involving three shots. She noted all holes in the ceiling area had the same splintering effect and an absence of any signs indicating that they had been in position for some time; i.e. they had the appearance of having being caused recently. She said that the 7 holes in the ceiling area were consistent with having been caused by three shots discharged from the deceased’s rifle fired in an upwards direction within cubicle 3 of the SAL block.

87. She said that the evidence was consistent with the deceased being seated on the toilet seat of cubicle 3 placing the muzzle of the weapon against his forehead, holding it in place with his left hand and causing the rifle to fire upwards into his head.
88. She said that all her investigations indicated that no one else was involved when the deceased was shot. She said that all the indicia was consistent with the deceased shooting himself and nothing in the evidence that she obtained or had made available to her was inconsistent with that.

89. She collected what were apparently projectile remnants and passed these to the QPS for ballistics examination and testing.

**QPS Ballistics Examination**

90. Evidence was given by Sergeant Michael Clarke of the QPS Forensic Services Branch Brisbane that he examined the deceased’s rifle subjecting it to drop and strike safety tests. As a result of those tests he found that the rifle did not display a tendency to discharge without operation of the trigger. It had a trigger pressure of 3.6 – 3.9 kilogram in semi-automatic fire mode and 6.5 – 6.6 kilograms in automatic fire mode. These pressures were substantially in excess of the minimum trigger pressure for general usage firearms, being 1.1 kilograms. He found the safety mechanism of the rifle functioned correctly and described the rifle as safe and functional. He said that nothing in his testing of the rifle indicated the possibility of it accidentally discharging. His examination excluded any interference or tampering with the rifle.

91. He also examined three discharged cartridge cases found in or in the vicinity of the number 3 cubicle where the deceased was found and concluded that they had been discharged by the deceased’s rifle. He said that the penetration and perforation of the roof area was consistent with three shots being fired upwards into the roof area.
92. In addition he examined a copper jacket projectile fragment found in the area of the cubicle ceiling and found that it had been discharged by the deceased’s rifle or a rifle with similar rifling. The report of his examination is Exhibit 50.

93. All of the evidence was consistent with the deceased, in breach of standing orders requiring him to keep his rifle in the Unload condition, fitting a loaded magazine to his rifle, bringing the rifle to the Instant condition i.e. the firing mechanism was cocked, there was a round in the chamber and the safety catch was off, and, pulling the trigger through two pressures, caused the rifle to fire on automatic fire.

Queensland Health Forensic Pathologist

94. Dr. Olumbe conducted a post mortem examination on the body of the deceased. His report of that examination is Exhibit 46. In giving evidence he said that soot blackening in the deceased’s forehead area was caused by burnt propellant from the muzzle of the firearm indicating a hard contact with the muzzle of the firearm at the time it fired. He said such deposit was similar to that noted on the deceased’s left thenar eminence and that this was consistent with the deceased’s left hand being held near the muzzle of the firearm at the time it fired.

95. He said that his examination indicated that a projectile from the rifle had travelled from the deceased’s forehead backwards and upwards and said the deceased’s head injuries were consistent with having been inflicted with a high velocity firearm.
96. He said that signs noted during his autopsy were consistent with the deceased being in a seated position with his head being forward and against the muzzle of the rifle at a point between the deceased's eyes and with the deceased holding the muzzle against his head with his left hand when the rifle fired. He concluded no person other than the deceased was involved in the incident.

97. He said that a comparison of the deceased's dentition with his dental records confirmed that the deceased was Private Baker.

98. He described finding one live round of F88 Steyr ammunition in the deceased's clothing. This together with the three cartridge cases fired from the deceased's rifle, found in the SAL block, the one round found in the chamber of the deceased's rifle and the 23 rounds found in the magazine on the deceased's rifle accounts for 28 rounds being the number of rounds usually placed into the magazine according to Major Niessl. Major Niessl said that while the magazine could take 30 rounds the company's policy was to load only 28 rounds to save wear on the spring that fed rounds into the chamber. Lieutenant Russell gave evidence consistent with this.

99. He said there was no evidence of any pre-existing natural disease or any other injury to the body which may have caused or contributed to the deceased's death.

100. He said toxicological examination showed no intoxicants in the deceased's body.

Evidence of Psychologists
101. Two psychologists working with ADF gave oral evidence. The first was Mrs. Carolyn Ireland nee Marchingo who conducted the psychological screening of the deceased when he applied to join ADF. She said that on the information provided by the deceased there were no indications of suicide risk factors. She said that had she been told that the deceased had contemplated suicide while at school she would have organised further examination(s) of the deceased and then made a further assessment as to his suitability for service in the ADF.

102. It is apparent that as well as withholding this information from Ms Ireland the deceased also denied prior drug use although he later admitted this in his initial interview at Singleton. She said that when she asked the deceased how he coped under pressure he said that he did not let things get to him. She was asked if it was the case that there was no diagnostic tool to empirically assess if a person is an imminent risk of suicide and no sure method of measuring truthfulness in what a patient or applicant says in relation to intent to commit suicide. She answered that without overt signs of distress it may be difficult to ascertain if a person is a suicide risk and that even if a person were to express an intention to suicide it would be difficult to know if this was a truthful statement.

103. The second psychologist called was Major Gall of the ADF psychology support section. She gave extensive evidence concerning the content of the Suicide Awareness and Mental Health training undergone by the deceased and described the pre-deployment briefing he received. Refer Exhibits 62 – 66 inclusive. She said that her unit could on request provide assistance for a group or an individual on deployment. She said that on a chain of command request such a process would be mandatory.
104. She was asked to comment on the two incidents in December 2006 and July 2007 when in the first incident the deceased had written I kill Baxter or words to like effect and in the second incident the deceased had said that it would be easier to kill himself than go AWOL. She said that without more information she could not say whether such incidents indicated a suicidal ideation on the part of the deceased but said that the issue of alcohol complicated the first matter because in some ways you could take it to be more the effects of alcohol than underlying risk factors and coping difficulties. She said sometimes alcohol I guess makes it easier for those sorts of coping difficulties to come out on the surface. It depends on the situation at the time as to whether or not they (the deceased’s actions) are related to suicide risk or suicidal ideation, I can’t say.

105. In respect of the later matter she said that guys will say all sorts of things when they are basically gobbing off to their mates. She said a lot of people we see in relation to suicide risk assessments have made statements regarding killing themselves or killing other people when they have no intent have no ideation and were just mucking around.

106. She said that the deceased’s friends had acted appropriately by talking to him about the issues on both occasions.

QPS Concerns

The Anonymous Allegations

107. During the course of the investigation, the COI received a statement from Senior Sergeant Nelson of the QPS, who advised that, she received confidential information from a police
officer who knew a member of the ADF who had been part of Bravo Company at 2 RAR. This member of the ADF was apprehensive about discussing the circumstances of the death of the deceased and refused to be identified to police.

108. Information from this member was to the effect that the deceased had struggled as a soldier in the Army at 2 RAR and as a consequence he was given a hard time and bullied. It was alleged that the deceased’s company was concerned about his state of mind prior to deployment, concerned about his depression and concerned about whether or not he would commit suicide.

109. Senior Sergeant Nelson advised that Queensland State Coroner had been briefed on this information and did not consider further investigation was warranted to identify the sources but advised that Counsel Assisting the COI should be informed so as to conduct any further inquiries within the ADF to verify or dispel this information.

110. Whilst this information does not constitute acceptable evidence, the COI determined that it was appropriate to act on Senior Sergeant Nelson’s statement and to ask all relevant witnesses called before the COI to address the issues raised. In addition, the COI called the deceased’s company commander Major Niessl to answer these anonymous allegations.

111. Major Niessl presented as an impressive, truthful and accurate witness. He was shown that part of Senior Sergeant Nelson’s statement containing the anonymous allegations and invited to comment on them. He had no hesitation in rejecting the allegations, describing the statement as being riddled with inaccuracies. He said that the deceased was not struggling and that if he had been he would not have been deployed to TL. He said the deceased made no more mistakes
than other members in what was a young company and was at times better than other soldiers. He said that the deceased was not given a hard time in Bravo Company and went on to say that no one in the company was given a hard time. He said his catchphrase to the company was that if you're in Bravo Company you look after each other. He said he never heard of or saw any bullying or harassment of anybody in Bravo Company.

112. He said he had not seen any evidence of the deceased suffering depression or mental illness in the context of meeting him several times in the course of each week. Rather he said that the deceased was always cheerful even on arduous exercises in the jungle and he had no concerns about his state of mind. He said that he received reports on the deceased and other members of the company from their immediate superiors regularly and that any sign of the deceased exhibiting depression or mental illness would have been reported to him but no such reports were received. He said that if the deceased had exhibited any such signs or any hint of mental illness issues he would not have been deployed to TL as he would have constituted a risk to other members of Bravo Company. He said that one person who had shown signs of mental instability was not deployed to TL for this reason. He said he had no doubt about the deceased's suitability and capacity for undertaking operational deployment in TL. He said that the deceased was a good soldier who represented his country overseas in a difficult place and was always cheerful. He said that he was shocked when the deceased died and had not seen any signs that he would engage in self harm.

113. He said that contrary to what was alleged from the anonymous source the deceased had not been charged with any offence relating to leaving his rifle unsecured. He said that the only
person able to charge the deceased with an offence for the insecurity of his rifle was the CSM who was with the OC all morning and was unaware of the insecurity prior to the deceased’s death. He said that while such an offence was a serious one, he himself would have heard such a charge and could only have given, by way of punishment, a fine equivalent to three days of the deceased’s pay and or seven days ROPs.

114. As earlier stated the COI found Major Niessl to be a truthful and accurate witness and accepted his evidence rebutting the anonymous allegations referred to in Senior Sergeant Nelson’s statement.

115. All of the deceased’s fellow soldiers who gave evidence to the COI and who were in a position to comment on the allegations from the anonymous source said that during the deceased’s time in the ADF they had never seen him being given a hard time or bullied and that he had never complained to them about such matters. In addition they stated (all of them having had Suicide Awareness training) that during the deceased’s time in the ADF at no stage prior to his death did the deceased indicate to them any signs such as to cause them to be concerned about his state of mind and specifically no signs that he was likely to commit suicide.

116. To the contrary of what was alleged, the deceased was variously described by those with whom he was in contact in the ADF as having a carefree attitude, being laid back, having a don’t care attitude to most things, looking back on the trouble he had been in and laughing about it, a person who would not let others push him around and would stand up for himself, relaxed and not caring to take things seriously, just wanting to chill out, being quiet but keen for a laugh and a drink if the opportunity arose and not appearing to be adversely affected when he got into
trouble for breaches of discipline. In general terms, the deceased was seen as a happy person who was making plans for his future on his return to Australia as late as the night before his death.

117. The COI is satisfied on the evidence that these anonymous allegations are without foundation and finds that to the contrary:

- The deceased was not struggling as a soldier;
- The deceased was not given a hard time or bullied by his fellow soldiers;
- the deceased’s company was not concerned about his state of mind prior to deployment and was not concerned about his depression or whether or not he would commit suicide.

Possible return of deceased to Australia

118. QPS received evidence during its investigations that the deceased was strongly motivated by financial considerations. QPS suggested to Counsel Assisting a possibility that the deceased may have been threatened with being returned to Australia over his rifle insecurity and that the potential financial setback from the loss of his operational salary and allowances and the associated shame and ignominy may have caused him to take his own life.

119. His OC Major Niessl, his platoon commander and platoon sergeant were questioned about any threat or mention to the deceased about him being returned to Australia, or of any general
warning to this effect to the unit or of any precedent of a soldier being sent back to Australia for leaving a rifle or other weapon insecure.

120. Major Niessl said there was no precedent for an automatic return to Australia in such circumstances. He said he would have heard any charge arising out of the deceased leaving his rifle insecure and that he lacked the authority on the hearing of such a charge to return a soldier to Australia. He said the only way a return to Australia could have occurred is if he had referred the charge to the Commanding Officer (CO) TLBG-3 and that it was unlikely that he would have done this. He said he would have heard the charge, had the deceased retrained and moved forward.

121. Sergeant Sharpe gave evidence to the effect that the possibility of his being returned to Australia was not raised with the deceased and that there was no precedent for such a return. He said that it was common knowledge in the battalion group that the only offence which would result in a soldier being returned to Australia was an unauthorised discharge. He said that the standard punishment for an unauthorised discharge was a short period of retraining in Australia followed by the return of the soldier concerned to TL.

122. Lieutenant Russell confirmed that the possibility of a return to Australia was not raised with the deceased and said the deceased would not have been returned to Australia for leaving his rifle insecure. He said that soldiers had been returned to Australia for unauthorised discharge of their weapons, but only for a few days of retraining and then brought back to TL.
123. The COI is satisfied on the evidence that the theory that the deceased was threatened with being returned to Australia for leaving his rifle insecure is without foundation and to the contrary finds he was not so threatened and that it is improbable that he would have been returned to Australia for leaving his rifle insecure.

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**Rumours emerging from the Commission’s inquiries**

**The Cage incident**

124. Private Grinstead, a friend of the deceased from another company in 2 RAR told the Commission of a rumour about the deceased being locked in a cage, the implication being that this was some form of victimisation or unlawful punishment. He said he was told of this at a ceremony on the day of the departure of the body from Dili. He said he could not recall the identity of the person who told him about it. He said he was upset that this could have happened to his friend and he was determined to find out about it. However, he did not question his informant or anyone else about it or report it to anyone despite the fact that he was in a different chain of command.
125. The COI questioned every relevant witness about this alleged incident. The evidence is that there was no cage in TL and no incident involving the deceased being locked or placed in a cage in TL. There was however, a storage facility constructed of steel mesh at the unit barracks in Townsville.

126. The evidence was that one morning in around April-May 2007, the deceased arrived at work in a condition that his mates thought the platoon sergeant had better not see. Accordingly, they put him in the storage facility, known as the cage, to conceal him from the sergeant. The evidence indicated that they also put each other in the storage facility on occasion in a good humoured way, described by one as akin to pushing each other into a swimming pool. The evidence was that the deceased was not troubled by this at all and that most of the soldiers did it to each other in fun. The evidence was clear that this was not some form of victimisation or unlawful punishment.

127. In summary, there is evidence that the deceased was placed in something resembling a cage. However, it was not in TL, it was many months before his death, it was not done against his will. It was done by his mates to protect him from possible disciplinary action and he was not troubled or concerned about it.

128. The COI is satisfied on the evidence that this rumour is without foundation and finds to the contrary that the deceased was not victimised, bullied or given a hard time by being locked or placed in a cage in TL or any other place.

Black eye incident

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129. A civilian friend of the deceased gave evidence of seeing a photo of the deceased with a black eye, on the deceased’s mobile telephone. He said he saw it during the deceased’s return to on pre deployment leave when they were together at the pub. He said the deceased was showing him a number of photographs on the telephone of various military related matters and one was of him with a swollen black eye and some redness on his face. He said the deceased told him he had a few arguments with people he worked with and had been in a fight with one of them. He did not tell the witness when it happened or give any other details about the fight.

130. The somewhat vague evidence of several of the deceased’s section members indicated in general terms that the deceased had been in a fight while out socialising in Townsville one weekend and that he had gone to the aid of another soldier in a fight. Private Hodgekiss recalled speaking to the deceased about this incident and the deceased passing it off as being of no consequence.

131. The COI is satisfied on the evidence that the implication that the deceased had been subjected to assault or physical violence by his fellow soldiers or superiors was without foundation and finds to the contrary that the deceased was not subjected to assault or physical violence in any form by his fellow soldiers or superiors.

**ADF awareness of the deceased’s potential for suicide**
132. Evidence was given by ADF personnel who worked with and in a number of instances were friends with the deceased. All had been trained in Suicide Awareness and without exception their evidence indicated that the deceased:

a. gave no overt indications that he was contemplating suicide;
b. never complained of being nor was he observed to have been bullied or singled out or harassed;
c. was generally seen to be cheerful up to and including 04 November 2007, and
d. was making plans for the future as late as the night before his death,
e. apart from two occasions in December 2006 and June/July 2007 when his words and actions could have been interpreted so as to indicate that he was contemplating suicide, never spoke of committing suicide. These two occasions were not seen by his friends who were trained in Suicide Awareness as indicia that the deceased was contemplating suicide and consequently were not reported to anyone.

133. The reliability of these incidents as indicia that the deceased was contemplating suicide was questioned by Major Gall when the incidents were described to her. Each incident was significantly temporally removed from 05 November 2007, the date of the deceased's death.

134. Given the evidence referred to in paragraph 133 and the evidence of the training provided to the deceased in Suicide Awareness and Mental Health Awareness, his pre deployment briefing on these issues, his platoon commander’s talk to him and other platoon members on these issues, and a Mental Health awareness lecture given to the deceased two days prior to his
death, and taking account of the same training given to ADF personnel working with the deceased, the COI is satisfied that there is no evidence of any insufficiencies, weaknesses or deficiencies as set forth in Para 3 (b) & (c) of the TOR during the period of the deceased’s service with the ADF. Specifically the COI finds that evidence did not disclose any act or omission in ADF procedures or on the part of ADF personnel which caused or contributed to the deceased’s death.

Post Death ADF Investigations

135. The ADF’s immediate incident responses and post death investigations have been detailed in paragraphs 79 – 81 hereof. The COI finds on the evidence that such responses and investigations were performed satisfactorily.

Post Death ADF Procedures

136. While the deceased’s family greatly appreciated the care that the Army had taken with them they considered that it would have been better to have been advised from the start that the deceased’s death looked like a suicide. They were simply told that there had been an incident with an Australian soldier in TL who had been killed by a gunshot and that their son had been identified as the deceased. Refer Mr. Baker’s Affidavit Exhibit 102. This evidence was produced on the final day of the hearing and was not tested or investigated.

137. As a consequence both were left with the impression that it had been an accidental shooting or that he had been shot by someone. Mr. Baker’s Affidavit states that the persons who informed
them of the deceased's death did not provide details of the incident and when asked did not
discount the fact that the deceased may have been shot by a sniper. Not until receiving the
ADFIS report containing details of ADFIS investigations into the deceased's death some six
weeks prior to the COI hearing and over three months from the deceased's death was it
brought home to them that the deceased's death may have been a suicide.

138. This caused them much distress and they found it difficult to adjust their mind set as to the
cause of the deceased's death and as a consequence difficult to fully comprehend and digest
the extensive materials provided to them in the ADFIS report.

139. Senior Sergeant Nelson of QPS was critical of the delay in bringing the known facts
surrounding the deceased's death to the family's attention and said that QPS practice would
be to do so, at the latest, following an autopsy on the deceased. She considered that the
interviewing of members of the family by QPS in this instance was hampered by their late
receipt of information indicating that the deceased had committed suicide.

140. The COI recommends that in future similar circumstances the family of the deceased be offered
a briefing on or be briefed on (depending on the circumstances) the facts surrounding their
relative's death as soon as the same are sufficiently fully and accurately known so as to
properly inform the family, and in any event no later than immediately following an autopsy.
Any such briefing need not involve a predetermination of the findings of any subsequent COI.
141. It should be noted that any delay in briefing the relatives beyond the time at which the results of an autopsy are known, will likely result in their being advised of the results of the autopsy through the office of the relevant State Coroner.

142. The deceased’s family also advised that the absence of a Military Support Officer (MSO) between the date of the deceased’s funeral and the date of commencement of the COI hearing caused difficulties in their dealings with the ADF concerning such matters as information about the deceased’s personal effects, appropriate engraving on the deceased’s headstone and the like. They considered that their many dealings with the ADF would have been easier if they had a point of contact through an MSO.

143. The COI considers that this appears to be a sensible suggestion and merits consideration.

144. Finally the family of the deceased found it difficult to adjust to changes of counsellors and would have preferred that a single counsellor had been appointed from start to finish.

145. The COI without knowledge of the circumstances in which this occurred, while drawing the matter to the attention of CDF, makes no recommendations in respect of this matter.

146. The COI finds on the evidence of Mr. Baker’s affidavit that ADF procedures in advising the deceased’s family of the circumstances of the deceased’s death were deficient.

COI findings pursuant to TOR
147. The deceased died on 05 November 2007 at the Helicopter Point of Departure (HPOD), Dili, TL.

148. The deceased died as a consequence of an intentional self-inflicted gunshot wound to his head. No third party or parties was or were involved in his death.

149. At the time of his death the deceased was a serving member of Bravo Company, TLBG-3 on deployment to TL as a component of the ISF-TL.

150. Actions taken by Defence personnel prior to the deceased's death being the provision of mandatory Mental Health and Suicide Awareness training to the deceased and his fellow soldiers and subsequent to his death being Defence personnel's investigation into the circumstances surrounding the deceased's death were sufficient in the circumstances in the context of paragraph 3(b) of the TOR.

151. Actions taken subsequent to the deceased's death by Defence personnel in communications with the deceased's family were not sufficient in that they failed to provide the family with timely information concerning the circumstances surrounding the deceased's death and failed to set up a suitable line of communications between the family and the ADF.

152. Save as aforesaid, no weaknesses or deficiencies of the type set forth in paragraph 3(c) of the TOR were identified in the COI's inquiries.
COI Recommendations

153. The COI recommends that in future similar circumstances the family of the deceased be offered a briefing on or be briefed on (depending on the circumstances) the facts surrounding their relative’s death as soon as the same are sufficiently fully and accurately known so as to properly inform the family, and in any event no later than immediately following an autopsy.

Submissions made to the COI on behalf of the family of the deceased

154. Speaking on behalf of the deceased’s family, Major Campbell SC stated in his concluding address to the COI, that the COI was conducted in an exemplary manner appropriate to the circumstances. He stated that members of the family felt that they had been treated with the utmost consideration and unfailing courtesy and that they expressed their thanks to the President of the COI, Counsel Assisting, and the COI’s administrative staff. Major Campbell submitted that the evidence indicated that the deceased had committed suicide. He said further that although why the deceased died may never be known, there was nothing in his treatment in the Army which could be pointed to as either being causative of his actions or contributory to them i.e. that no act or omission in ADF procedures or on the part of ADF personnel caused or contributed to the deceased’s death. Major Campbell’s representation of the family of the deceased was competent and constructive.

Acknowledgements

155. The COI draws to the attention of CDF the excellent work done by Counsel Assisting, Colonel Griffin and Lieutenant Nottle RAN, and by the administrative staff Captain Cleary, Sergeant
Chamberlain and Mrs. Edlinger. This work enabled the COI to conduct its inquiries with a maximum of efficiency. Their work (assisted by input from the CDF COI Cell) in the forward planning and preparation for the COI hearings was essential and effective in focusing and confining the evidence and the issues so that the COI was able to be conducted within eight days with reduced disruption to the operations of TLBG-3.

156. The COI received every assistance from Headquarters Joint Operations Command, ISF – Timor Leste, TLBG-3 and Brigadier Krause and 1st Brigade personnel and records its appreciation for such assistance. It also records its appreciation for the support provided by CDF COI Cell personnel. Finally the COI records its appreciation for assistance provided by the Queensland Coroner, Mr. M. Barnes and personnel from QPS and AFP.

Addendum

157. After this report had been prepared and was about to be forwarded to CDF in the form preceding this paragraph, the COI received on 27 March 2008, information by a phone call that a then unidentified ADF member had come forward with information that a person she identified as the deceased had told her in the course of a conversation in a Townsville bar on a Friday night in March – April 2007 that he intended committing suicide. This information was subsequently confirmed in an email dated 27 March 2008 from Major Sinclair.

158. Following receipt of such information, Counsel appearing on behalf of the family of the deceased was advised of the content of the conversation and this was passed on to the family of the deceased by email dated 27 March 2008 from Major Campbell SC – refer Exhibit 109. As
a consequence of receipt of such information the COI determined to make further inquiries of the ADF member with a view to reconvening to receive her evidence and as a consequence did not proceed further with its report.

159. Subsequently further emails from the deceased’s family – refer Exhibit 109 and a letter from Kenny & Partners, Solicitors, acting on behalf of the family of the deceased dated 7 April 2008 – refer Exhibit 110 were forwarded to the COI by Major Campbell SC.

160. By letter dated 4 April 2008 Major Campbell SC responded to the letter from Kenny & Partners – refer Exhibit 110. The emails and the letter referred to in the preceding paragraph hereof contained a number of inquiries by the family of the deceased regarding alleged contradictions and uncertainties in the evidence received by the COI during it Darwin hearings.

161. While the emails and the letter raised a number of issues the family of the deceased ultimately sought further information on the following issues only:

a. Although the evidence indicated that the deceased had suffered a massive amount of damage to the head, Mr. Keith Harris the funeral director who arranged the deceased’s funeral had advised the family that when the deceased arrived at his office he had only two small head wounds and that a bandaid would have covered each head wound and that his injuries were inconsistent with a self-inflicted gun shot wound. He also advised that the condition of the deceased’s body when observed by him was inconsistent with having been left in situ for six hours following death.
b. Although the autopsy report signed by Dr. Olumbe stated that the deceased's body was not visually recognisable for the purposes of identification the family were quite able to recognise the deceased at the mortuary during a viewing prior to his funeral. In addition the family of the deceased point out that other witnesses were able to identify the deceased when he was first found in the SAL block.

c. Although evidence indicated that the deceased was left in the SAL block for 6 hours following his death, while investigations were carried out, Mr. Keith Harris had advised them that the deceased's condition on arrival at his premises did not show signs of having been left for any length of time before being taken to hospital.

d. The Coroner's report (the autopsy report) stated that 7 shots were fired from the interior of cubicle 3 of the SAL block, and not 3, as was given in evidence by witnesses during the COI's hearings.

e. The Coroner's report (the autopsy report) stated that 55 minutes elapsed from the time the shots were heard to the time the deceased was located in cubicle 3 of the SAL block while evidence given at the COI's hearings indicated that the time between the shots and the location of the deceased's body was 30 seconds or so.

f. Whether the witness McKeown had changed his evidence in respect of the deceased being subjected to bullying or harassment by ADF personnel prior to his death.

g. Whether the deceased's rifle had been tested for fingerprints other than those of the deceased and why no fingerprints were found on the rifle.

162. Following receipt of the emails and the letter containing the expressed concerns of the family of the deceased the COI determined to reconvene in Brisbane on 21 and 22 April 2008 to receive
the further evidence provided by the ADF member and to address the issues raised by the family of the deceased at the same time.

163. Certain of the expressed concerns of the family of the deceased can be dealt with on the basis of the evidence as it stood at the close of the COI’s hearing in Darwin.

164. The issues raised in d. and e. of paragraph 161 hereof, were specifically addressed when the pathologist, Dr. Olumbe, gave his evidence. In relation to his reference to 7 shots in his autopsy report, he confirmed – refer transcript p. 139 – that this was simply an assumption that he made on the basis of his having been advised that there were 7 holes located in the roof above cubicle 3 in the SAL block. He stated in evidence that such holes could have been caused by one projectile fragmenting. Federal Agent Dodsworth from the Australian Federal Police confirmed that the 7 holes observed by her were consistent with having been caused by projectiles, being fragments of bullets and fragments of bone, following the discharge of 3 shots from the deceased’s rifle; i.e. of having been caused by the one incident – refer transcript p.120 – 121.

165. In relation to the reference in his autopsy report, to the deceased not having been located until 55 minutes after the shots were heard, Dr. Olumbe, at the commencement of his evidence pointed out that there were some typographical errors in his report – refer transcript p.126 – and later said that the number 55 was a typographical error and should be amended to read 3 to 5 minutes later the deceased was located in the SAL block. The evidence of Garrad, Hanson, McMahon, Pitt, Fitzgerald and others confirm that the deceased was located in cubicle 3 in the SAL block very shortly after the shots were heard.
166. In relation to the issues raised by the family of the deceased in a. and b. of paragraph 161 hereof, the COI notes in relation to a. that there is no doubt that the deceased suffered a massive amount of damage to the head from the impact of at least one bullet which entered his forehead at a point between his eyes and travelled upwards and backwards,

- refer Exhibit 46. Photographs taken at the scene confirm significant damage to the deceased’s skull.

- refer Exhibit 6.

167. The COI notes in relation to b. that identification of the deceased was established by fingerprint and dentition comparisons in the course of Dr. Olumbe’s autopsy – refer Exhibit 46. It later emerged (in final addresses) that the family of the deceased did not wish to raise any issues as to the identity of the deceased but were only concerned with the discrepancy between what they had been told by Mr. Keith Harris and what was contained in the autopsy report.

168. In relation to the matters raised in sub-paragraph c. of paragraph 161 hereof the COI notes that assuming the deceased died at the time when the shots were heard i.e. at 1143 hours, as recorded by guard post pickets, the evidence of Flight Sergeant Richards ADFIS investigator – refer transcript p.106 – and others, was that the deceased’s body was removed from cubicle 3 shortly after 1547 hours on 05 November 2007 and removed from the SAL block at 1604 hours i.e. approximately 4 ¾ hours after his death. It is not plain where the family of the deceased obtained the time of 6 hours as a basis for the concern expressed in that regard. Ultimately when Counsel for the family of the deceased was asked to specify how they had fixed on the time of six hours he was unable to point to any evidence to support their assertion.
169. In relation to the issues raised in sub-paragraph f. of paragraph 161 the COI notes that evidence was given by numerous ADF personnel and also by friends of the deceased (some 24 persons in all) indicating that the deceased had not been bullied or harassed by ADF personnel prior to his death. Refer to paragraph 115 hereof.

170. The COI reconvened in Brisbane on 21 and 22 April 2008 and received evidence from the following persons:

a. Sergeant Ingle in relation to the deceased having told her that in about March/April 2007 that he intended committing suicide.

b. Mr. Keith Harris who had questioned the pathologist’s report.

c. Dr. Olumbe and Lieutenant Colonel (Dr.) McCall concerning the autopsy performed on the deceased.

d. Sergeant Siasat, a fingerprint expert from QPS, to give evidence of his testing for fingerprints on the deceased’s rifle and equipment.

e. Mr. McKcown concerning his previous evidence.

f. Sergeant Lewis of ADFIS who had conducted post-death investigations was to have been called to give evidence but when Counsel for the deceased’s family indicated that they did not wish to hear from him, he was not so called.

171. On 21 April 2008 Sergeant Ingle gave evidence to the COI. Her statement was tendered – refer Exhibit 105 – and she gave further oral evidence when questioned on her statement. She confirmed in her oral evidence that she could not identify the person to whom she spoke in
Townsville as the deceased. She only spoke to him for about \( \frac{1}{3} \) an hour at which time she was intoxicated. The only identifying features she was able to recall of the person she spoke to was that he was in 2 RAR and that he had a receding hairline. She could not recall his height or his build or any other distinguishing feature. It was some nine months following her conversation with this person before she recalled that his name was Ashley. She said that the person to whom she spoke, regarding his intending to commit suicide pulled up his shirt sleeve to show her his wrist. She said it was dark and she did not want to look, and saw nothing on the man’s wrist. The autopsy report – refer Exhibit 46 – did not indicate that the deceased had any identifying marks on his wrists. In all the circumstances, the COI was not satisfied that her evidence was such as to permit a finding that she had been speaking to the deceased.

172. On 21 April 2008 Mr. Keith Harris, Funeral Director, who had prepared the deceased’s body for the funeral after autopsy gave evidence. He said that although he had advised the family of the deceased that the appearance of the deceased’s injuries was inconsistent with a self-inflicted gunshot wound, he had done so without having seen any photographs of the deceased’s head injuries taken initially in the SAL block and later in the course of the autopsy. Following his being taken through the photographs of the deceased’s injuries immediately after his death and in the course of the autopsy, he confirmed that he accepted the autopsy report and its conclusions i.e. that the deceased died as a result of a self-inflicted gunshot wound to the head. He further confirmed that the state of the deceased’s body when he first received it was not in a state of significant decomposition as he claims he was advised it was, and that this was consistent with it having been removed from the air-conditioned SAL block less than 6 hours after death and later having been conveyed to a mortuary. His evidence addressed the concerns
raised by the family of the deceased in an email of 28 March 2008 at 0647 hours – refer Exhibit 109.

173. On 21 April 2008 Dr. Olumbe, Pathologist with QLD Health, was recalled to give evidence. At the same time Lieutenant Colonel (Dr.) McCall who was present at the autopsy was called to give evidence. Both doctors confirmed the degree of damage to the deceased’s skull noted during the autopsy and described in the autopsy report. Both confirmed that the body of the deceased was not visually recognisable for the purposes of identification when it was received at the John Tonge Medical Centre for autopsy. Both confirmed that a significant amount of reconstruction of the deceased skull was necessary to prepare the deceased for viewing by his family. Both gave evidence that the discharge of three rounds from the deceased’s rifle which was in automatic fire mode, was not inconsistent with the deceased dying after being struck by projectile from the first shot being fired.

174. On 22 April 2008 Sergeant Siasat, fingerprint expert with QPS gave evidence of having tested a number of items associated with the deceased, including his rifle, for fingerprints. He said that using all possible examination techniques he was unable to develop any fingerprints suitable for identification. He explained the possible causes of this. He said to properly examine the various items for fingerprints required their being brought back to a fingerprint laboratory rather than that the testing be carried out on location in TL. He said that the delay of some 17 days between the deceased’s death and his testing for fingerprints may have been responsible for his inability to develop fingerprints but said that it was not possible to say if this was the cause or not. When asked if the conditions in TL may have militated against his being able to develop
fingerprints, he said that any answer would be speculative and depended on the manner in which the items were packaged, exposure to climatic conditions and other matters.

175. On 22 April 2008, Mr. McKeown was recalled to give further evidence to the COI. Emails from the family of the deceased had suggested that the evidence he gave on the first occasion was incorrect or incomplete and that he had been told not to worry by Counsel Assisting regarding the inclusion of certain relevant evidence in his testimony. On his recall Mr. McKeown confirmed the correctness of the evidence he had previously given. Specifically he confirmed that the deceased had never complained to him that he had been subjected to any harassment or bullying while he was in the ADF. He said that the deceased did say to him shortly prior to deploying to TL that he had copped some shit in the Army and had been in a fight with an ADF member and had received a black eye. He said that he got the impression from this information and from the deceased’s demeanour that the deceased may have been harassed or bullied by ADF members. However he agreed that it was possible that the deceased may have been speaking of punishments he had received for disciplinary infractions. He specifically denied that Counsel Assisting had told him not to worry about aspects of the evidence. He confirmed that he had not felt under pressure to give his evidence in a particular way and that he had felt free to add to or vary his evidence when it was given to the COI in the Darwin sittings. Apart from his reference to the deceased having said that he copped some shit in the Army and his evidence concerning his impressions, his evidence was otherwise essentially unchanged from that given by him previously in Darwin.
176. In final addresses to the COI, both Counsel Assisting and Counsel for the family of the deceased submitted that:

a. the evidence of Sergeant Ingle was unsatisfactory and that the COI should not find that she had spoken to the deceased;

b. the COI should accept the evidence that the deceased had not been bullied or harassed whilst he was in the ADF;

c. the absence of the fingerprints on the deceased’s rifle had been satisfactorily explained by Sergeant Siasat;

d. following Mr. Harris resiling from his prior opinion expressed to the family of the deceased, the evidence indicated that the deceased’s injuries were consistent with a self-inflicted gun shot wound and the appearance of the deceased’s body at the time it was first seen by Mr. Harris was consistent with being left in-situ post death for some 4 ¼ hours in an air-conditioned SAL block and then being conveyed to a mortuary;

e. only three shots had been shot from the deceased’s rifle;

f. there was no evidence to suggest that the single bullet found in the deceased’s clothing in the course of the autopsy was different to those found in his rifle and its magazine and that the explanation for this single bullet in his clothing was that it had dislodged from his magazine when he was carrying the magazine in his clothing – refer transcript 464 - 465, and
g. soot particles noted during the autopsy on the left hand of the deceased indicated that he had held the rifle to his head with his left hand at the time he fired.

177. Major Campbell SC for the family of the deceased outlined to the COI the balance remaining of the totality of the concerns of the family of the deceased indicating that they were being addressed and did not require examination by the COI.

178. He stated that the family were conscious of the time and resources involved in reconvening the COI but had found the additional facts that emerged in the Brisbane hearings useful in clarifying those issues that had been causing them concern.

179. Neither Counsel assisting nor Counsel for the family of the deceased wished to change any aspects of their respective final submissions made at the conclusion of the COI’s hearings in Darwin.

180. It is the view of the COI that no evidence emerged in the course of it’s hearing in Brisbane on 21 and 22 April 2008 to cause the COI to change it’s initial findings set out in paragraphs 147 – 152 of this report.

A.J. KIRKHAM AM, RFD, QC
President
Private Baker Commission of Inquiry

23 April 2008