AUSTRALIAN DEFENCE FORCE

OFFICE OF THE CHIEF OF THE DEFENCE FORCE

Australian Government
Department of Defence

REPORT

COMMISSION OF INQUIRY INTO THE DEATH OF CAPTAIN ANDREW ARVI PALJAKKA

HELD AT RANDWICK BARRACKS NEW SOUTH WALES
PREFACE

The President of the Captain Andrew Arvi Paljakka Commission of Inquiry, Mr Frank Cullen, forwarded the Commission’s report to the Appointing Authority, Air Chief Marshall A.G. Houston, AC, AFC, on 6 May 2008. The version here includes a number of minor deletions or amendments. Changes are listed in the Table of Amendments.

Material not published

As identified in the Table of amendments there are sections of the report which have not been published. Some material has not been published because publication would be an unreasonable disclosure of sensitive personal or operational information. These parts are not material to the findings or recommendations in the report.

Table of Amendments

| Paragraph | 2, 5 | Not published for reasons of unnecessary disclosure of personal information. |
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COMPOSITION OF THE COMMISSION PERSONNEL

MR. FRANK CULLEN         President

SQNLDR JAMES GIBSON       Counsel Assisting

LEUT TRISTAN SKOUSGAARD RN Assistant Counsel Assisting

MAJ JONATHON HYDE         Counsel Representing Ms Kylie Rogers (Wife of the Deceased)

LEUT PAUL HOGAN           Counsel Representing CAPT Andrew Arvi Paljakka (Dec’d)

CAPT STEPHEN LOFTUS       Commission Secretary

CAPT DENNIS CLEARY        Commission Secretary

WO2 CLIFFORD BELL         Commission Manager
THE CONDUCT AND PROCEDURES OF THE COMMISSION OF INQUIRY

1. Following a recommendation by SQNLDR J. Gibson Captain Paljakka and his wife Ms. Kylie Rogers were allocated separate counsel to appear before the Commission. Both parties attended each day of the Hearing.

MAJ Jonathon Hyde represented Ms. Rogers and LEUT Paul Hogan represented the Deceased Captain A. Paljakka.

2. An Instrument of Appointment dated 19 August 2007 and Terms of Reference dated 27 September 2007 were issued under the hand of the Chief of the Defence Force, Air Chief Marshal A.G. Houston AO, ACF.

3. The abovementioned Instruments were amended prior to the commencement of the adjournment hearing on 23 January 2008. The date of the Instruments was 15 January 2008. The Instruments were amended following a request by Mr. Arvi Paljakka to have the Commission of Inquiry conducted in public. The Terms of Reference were also amended to include further Inquiry Tasks which were as a result of evidence given at the initial hearing of the Commission of Inquiry.

4. The Commission hearing was held at the Randwick Barracks Sydney commencing on 7 November 2007 and continued until 14 November 2007 when it was adjourned until 23 January 2008.

5. On 23 August 2007 Counsel Assisting the Commission, SQNLDR James Gibson traveled to Queensland and spoke with Mr. and Mrs. Paljakka and outlined to them the Inquiry process, confirming what he had said in a letter dated 29 August 2007. He also met with Ms. Kylie Rogers on 31 August 2007 with respect to the same issues. The President traveled to Sydney meeting with the Counsel Assisting, the Manager and Secretary and Investigator to implement the, scoping and planning the conduct of the investigation and the Inquiry Hearing on 17 and 18 October 2007.

6. The Commission of Inquiry was allocated a specific investigator from the Australian Defence Force Investigative Service (ADFIS), SGT Sean Matthew O'Dowd. This innovation was extremely useful to the Commission, providing excellent statements from witnesses.

7. The COI heard evidence from fifty (50) witnesses and received into evidence 143 exhibits. In order to assist in determining the Terms of Reference expert evidence was adduced as follows:
(a) COL Peter J. Murphy Direct or Defence Force Psychology Organisation

(b) GPCAPT Leonard Lambert. Director ADF Mental Health.

(c) Professor A. McFarlane. Professor of Psychiatry, University of Adelaide, Director of the Adelaide node of Military and Veterans’ Health.

(d) LTCOL I.A.G. Siedl. Staff Officer, Joint Health Support Agency.

(e) Dr. M.M. Orde. Forensic Pathologist, Department Forensic Medicine Sydney.

8. The Commission of Inquiry proceedings were completed in fourteen sitting days. On adjournment of the Inquiry, submissions of Counsel were ordered to be submitted in writing, the process being completed on 25 February 2008.

9. The original date on which the report was to be submitted was 10 February 2008 however when the Inquiry could not be completed in November 2007 the date was extended to 30 April 2008.

10. As a result of CAPT Pajjakka being a member of the Special Operations HQ it was necessary to call members of the unit to give evidence. Initially staff officers were called which included the Commanding Officer from whom evidence was obtained via telephone link from Afghanistan. At the time the evidence was adduced authority was given for a SOHQ legal officer to be present with the Counsel Assisting

AND FURTHER

On 21 January 2008 Commission of Inquiry members conferred with WGC DR C. Taylor with regard to potentially sensitive evidence and the operation of Regulations 62 and 111 of the Defence Inquiry Regulations, followed by a briefing by Special Operations HQ members. On 23 January 2008 the President was approached by SQNLDR Gibson as to security issues with respect to evidence to be called

AND FURTHER

Mr. Arvi Pajjakka complained regarding the standard of the interpretation provided and was granted a request to substitute the interpreter
AND FURTHER

a request by Counsel LEUT Hogan and MAJ Hyde to recall Drs. Blackwood, Badham and Anderson was dismissed by the President.¹

11. In the interests of protecting the security of Special Operations' members pseudonyms were allocated to all members who had given evidence. During the evidence of Soldier 12 the public were excluded from the hearing; Mr. Paljakka and Ms Rogers were permitted to remain however they were given a directive pursuant to Regulation 62.

12. The transcript of the evidence given by Soldier 12 on 25 January 2008 was provided to SOHQ staff for appraisal regarding security. The transcript was never released by them and the President was unable to obtain any reason for the failure to release the document. The President is of the view that it would have been an unwarranted expense to reconvene the Commission and call members of SOHQ to give an explanation. This will be the subject of a Recommendation.

13. The Commission of Inquiry has applied the civil standard of proof in determining the evidence and making findings. The principle annunciated in Briginshaw v Briginshaw (1938) 60 CLR 336 were applied

AND FURTHER

The rule in Browne v Dunn (1894) 6 ER 67 (HL) was applied in the respect to evidence given to the Inquiry.

14. The Terms of Reference (TOR) are addressed and conclusions have been reached on the evidence in respect to each of the TOR. The findings although referred to during the text of the report are also consolidated in a separate part of this report.

15. The report has been written by the President addressing the Terms of Reference as published in the TOR issued by the CDF. It is acknowledged that the task was assisted by the final submissions of Counsel Assisting.

¹ T/s p.737-738
INTRODUCTION

ANDREW ARVI PALJAKKA, Captain, Service Number who was attached to Special Operations HQ (SOHQ) was found hanged in a room of the Hotel, Kings Cross Sydney New South Wales by Soldier 1 and naval coxswains LSBM A.D. Smith and LSNPC M.L. Tipalody of HMAS Kuttabul on 26 February 2007.

Initial inquiries by MAJ F.Scalzo SO2 Health Operations revealed that CAPT Paljakka had problems with alcohol abuse from about June 2006 following his return from a deployment in Afghanistan. At about that time CAPT Paljakka had been admitted to Balmoral Naval Hospital (BNH). He commenced the Alcohol Rehabilitation and Education Program (AREP). CAPT Paljakka failed to complete the program citing his wife’s health as a reason to ensure his release. The evidence at the Commission of Inquiry revealed his alcohol problem was complicated by illicit drug use.

In November 2005 CAPT Paljakka married Ms. Kylie Rogers and in March 2006 CAPT Paljakka became aware of an extra marital affair by his wife.

On the 25th April 2006 CAPT Paljakka was deployed to Afghanistan as part of Operation Slipper. His task was as OIC Force Insertion and Extraction Group (FIEG) to evaluate and assess the explosives ordnance held within the SOTG base at Tarin Kowt. On his return to Australia following a six week deployment CAPT Paljakka was found to be taking illicit drugs. On the 28th July 2006 he was arrested for possession of amphetamines by the NSW police in Kings Cross. Between July 2006 and February 2007 there were several instances of drunkenness and admission to military and public hospitals with regard to his alcohol dependence.

In May 2006 just prior to his return to Australia CAPT Paljakka underwent psychological screening (RtAPs). There were no comments by CAPT Paljakka regarding him being exposed to any traumatic episodes however following his return CAPT Paljakka recited a number of episodes of trauma in relation to death, killing and the rape of a child. In August 2006 when assessed by Dr. Lee Hardwick, CAPT Paljakka was suffering blackouts, withdrawal symptoms, tremors and nightmares accompanied by panic attacks relating to his Afghanistan service. He was diagnosed with alcohol dependence with possible Post Traumatic Stress Disorder (PTSD). The diagnosis was not supported by Psychologist Mr. Stephen Rayner or the Senior Medical Officer of Balmoral Naval Hospital. Dr. Blackwood concluded that in his view CAPT Paljakka was not suffering from PTSD. In February 2007 Mr. Rayner stated that his view was that there was insufficient evidence to diagnose PTSD although it was still possible. On the 15th February 2007 Dr. John Walker diagnosed Alcohol Dependence, Co-morbid Post Traumatic Stress Disorder and Major Depressive Disorder.

In mid October CAPT Paljakka smelt of alcohol when at work in SOHQ by a colleague and following a number of instances in November 2006 of being absent from duty, he
was admitted to the Royal Price Alfred Hospital on 1st December 2006 after being found unconscious at his home and was diagnosed as suffering from the effects of an excess of alcohol. CAPT Paljakka was transferred from the RPA to Balmoral Naval Hospital where he refused treatment and discharged himself.

On the 4th December 2006 CAPT Paljakka was found by his wife in a severely intoxicated condition and he consented to being admitted to the Balmoral Naval Hospital. Following treatment he again attended his workplace on 12th December 2006 and was granted leave to 15th January 2007.

CAPT Paljakka had his DSN access removed and SOHQ building access restricted to work day hours only.

On returning to duty on 16th January 2007 CAPT Paljakka was spoken to by Soldier 2 in regarding his “poor performance” during the latter half of 2006.

On the 28th January 2007 the duty officer at Royal Military College Duntroon (RMC) received a telephone call from Mr. Aaron Filewood a long time friend of CAPT Paljakka. Mr. Filewood who initially would not reveal his name told the duty officer that CAPT Paljakka was at his home in Canberra and that he had become concerned for CAPT Paljakka’s welfare. Mr. Filewood’s concern arose when he was asked if he had a pistol or a rifle. The duty officer contacted a padre at Special Operations’ Headquarters who stated that he would inform the Chief of Staff Soldier 2.

Following the incident in Canberra CAPT Paljakka did not report for duty on the 29th January 2007. Later that day he was spoken to by Soldier 1 regarding a move to reside at HMAS Kurrabul ward room accommodation and he was ordered to return to work the following day. CAPT Paljakka failed to report for duty on the 30th January 2007 and was found later under the influence of alcohol in his quarters at the base by Soldier 1.

As a result of discussions CAPT Paljakka agreed to undergo specialist treatment with respect to his alcohol dependence. Medical officers at Balmoral Naval Hospital arranged for his transfer to St. John of God Private Hospital on 14th February 2007 to undergo alcohol dependency treatment. On the 23rd February 2007 CAPT Paljakka was granted day leave from the Hospital to obtain some legal advice. He returned the same day. On the 25th February 2007 at or about 12.13am Hospital staff contacted the New South Wales Police at Windsor informing them that CAPT Paljakka was missing. The police were notified following a search of the premises and the grounds of the Hospital by security staff. The Windsor police attended at St. John of God Hospital at about 1am. The report of the missing Captain was not placed on the police computer system COPS until 5.25am 26.2.2007.

At about 8.45 am on 26 February 2007 Registered Nurse Cheryl Newton of St. John of God Hospital contacted Balmoral Naval Hospital and spoke with Dr. Badham regarding CAPT Paljakka’s absence from St. John of God. Earlier on the morning of 26th February 2007 at about 6.48am police officers were patrolling an area of Woolloomooloo Sydney
when CAPT Paljakka was seen by them to exchange something with another male person. The police approached him as the area is a known drug dealing area. CAPT Paljakka had enlarged pupils and a search of his person revealed two syringes that he stated were for a female friend. He was not found in possession of drugs at that time however at the Post Mortem examination two small yellow balloons were found in his stomach. The balloons when later analysed contained “paracetamol, caffeine, codeine, morphine, acetyl codeine, monoacetyl morphine, diacetylmorphine, and papaverine. CAPT Paljakka told the police he was a member of the Australian Army – SAS. He told the police that he was leaving the Army as he was suffering from Post Traumatic Stress Disorder. It was determined by the police that CAPT Paljakka was staying at the Hotel, Darlinghurst Road Kings Cross. The information regarding the absence of CAPT Paljakka from St. John of God Hospital was not passed on to the police officers in Kings Cross however a police officer at Windsor Police noted that CAPT Paljakka had been stopped by police in Kings Cross when seeing the incident on the COPS system. St. John of God Hospital was notified. The information was passed on to the Balmoral Naval Hospital and LCDR Mark Napier, HMAS Kuttabul, together with CPO Ian Rigby of the Naval Police.

It was arranged that the Naval Police attended at the Hotel and they would be accompanied by Soldier 1. On arrival at the Hotel Soldier 1 accompanied by LSNPC M.L. Tiplady entered Room and found CAPT Paljakka hanging inside the wardrobe of the room. A used syringe was located in the waste paper bin.

The scene of the death was examined by the New South Wales Police Forensic Branch and it was determined that there were no suspicious circumstances and that CAPT Paljakka had taken his own life.

A Post Mortem examination conducted by Dr. Matthew Orde found that CAPT Paljakka had died as a result of “hanging” with a number of illicit drugs in his body.

Captain Andrew Arvi Paljakka died at sometime between 6.30am and 12.15pm on 26 February 2007 as a result of hanging, at the Hotel Kings Cross Sydney New South Wales.
ARMY SERVICE AND PERSONAL HISTORY

ANDREW ARVI PALJAKKA was born on 20.4.1979 in Canberra.

28.3.1998  Enlisted in the Australian Regular Army (ARA)
Inducted into the Royal Military College Dumroon.

29.1.1999  Appointed as an Officer Cadet.

17.7.2001  Graduated from RMC with the substantive rank of Lieutenant
Posted to Darwin Northern Territory as a Logistics Planning Officer (LOG
PLANS) at 1 Armoured Regiment (Tanks) then Administrative Officer at
1CSSB.

18.9.2003  Completed an Ammunition Technical Officer (ATO) training course
qualifying as an ATO.

19.1.2004  Promoted to substantive rank of Captain and posted to JALO (OPS
PLANS). Unit located at the Defence Establishment Orchard Hills
NSW.

2006  Personnel File – attended numerous proficiency
courses as follows:

- Army Alcohol and Drug mandatory Awareness training
- ADF Suicide Awareness mandatory training
- ADO Occupational Health and Safety Awareness

16.1.2006  Posted to Special Operations Headquarters Sydney as Ammunition
Technical Officer (ATO) at the Headquarters’ Level Direct Supervising
Officer Soldier 11.

Soldier 11 delegated CAPT Paljakka’s extra responsibilities in addition to
those of an ATO which included the following:

- Logistical Planning for regional counter terrorism
- Coordination support for conferences and a role on the
  SOCOMD Social Committee
In addition to other qualifications CAPT Paljakka completed the following courses:

- Effective Writing Programs
- Occupational Health and Safety
- Driving Course
- Army Assessor Workplace Trainer
- Explosive Device Disposal
- Logistic Officer Intermediate RAAOC
- Force Preparation - Operation Slipper

CAPT Paljakka designated the Special Forces as one of his Unit's preferences.²

In November 2005 CAPT Paljakka married Ms. Kylie Rogers at a ceremony in Watson’s Bay Sydney New South Wales.

In February 2006 Ms Rogers attended a work related function in Darwin and CAPT Paljakka subsequently discovered she had engaged in an extra marital affair.

Following the discovery of his wife’s infidelity CAPT Paljakka telephoned a long time friend Aaron Filewood in Canberra.³ He then drove to the house of Mr. Filewood. The event in early 2006 has significance with regard to the deterioration of his emotional state and will be examined further in this report with regard to the use of alcohol and drugs. At the time of his discovery regarding his wife’s infidelity CAPT Paljakka was designated as a member “Operation Slipper” to Afghanistan.

He was deployed to Afghanistan as the Team Leader of the Logistic Support Team (LST#2) leaving Australia on the 27th April 2006 traveling to Afghanistan arriving at Tarin Kowt secure base on 2nd May 2006 and then flying from in a C130 aircraft.⁴ LST#2 was deployed to support the Special Forces Task Group (SFTG) by revitalizing the logistic platform across the ammunition, technical regulatory framework and Safety Portfolios.⁵

LST#2 did not have a combat role.⁶

CAPT Paljakka’s task was to conduct a stock-take of ammunition supplies.⁷ Soldier 11 was at the time tasked with the co-ordination of all logistical planning for the SFTG in Afghanistan⁸ CAPT Paljakka’s role was auditing and ensuring compliance. His

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² Exhibit 35
³ Exhibit 88 p.5 para.14
⁴ Exhibit 115 para.6. Exhibit 35 ADO Service Record.
⁵ Exhibit 130 Statement Soldier 11
⁶ T/s p.814-L19
⁷ T/s p.814-L33-39
⁸ Exhibit 130 para 2
deployment did not include deployment outside the Special Forces Task Group compound at Tarin Kowt and Kandahar.\(^9\)

It has been of some concern that it was difficult to ascertain throughout the Inquiry whether or not CAPT Paljakka had left the Tarin Kowt compound. It is however clear now from the evidence of some of his colleagues that CAPT Paljakka did travel to Kandahar. I am conscious of the necessity for security of information that may assist the forces opposed to the Government of Afghanistan relating to the security and safety of Australian troops. However I am of the view that an acknowledgement by SOCOM of such a movement would have been helpful to all concerned.

The importance of the evidence relating to CAPT Paljakka’s deployment will be analysed later in this report with regard to reported problems encountered by him. The sequence of events following the deployment of CAPT Paljakka and the medical evidence will be disseminated later.

It is important to state that following the return of CAPT Paljakka to Australia after his short deployment to Afghanistan his health and well being deteriorated. He was admitted to hospital on a number of occasions and it is apparent that he engaged in the taking of illicit drugs which included morphine, cocaine and methyl amphetamine. There was also a significant increase in the use of alcohol both whilst at work and in his recreation time.

Following is a “Time Line” setting out sequentially the dates on which the events mentioned above occurred. There is a significance attached to both the deployment to Afghanistan and the rapid deterioration of his relationship with his wife. As stated previously the proximity of both events to each other had an extremely detrimental affect on CAPT Paljakka.

Up unto the events mentioned above and except for some minor criticism CAPT Paljakka was regarded as an efficient officer. It must be stated that he was at that time, the youngest graduate from Royal Military College Duntroon and his future as an officer was assured. Until the time he was transferred to the Special Forces Headquarters the only blemish on his record was a security breach investigated by the Defence Security Authority (DSA IR-DSD-SIV-155-2005 dated 10\(^{th}\) March 2006.\(^{10}\)

The breach related to Nationally Classified Documents being found on an unclassified Defence laptop computer which belonged to Explosive Ordnance Technical Services Defence Establishment Orchard Hills Sydney. The computer had been allocated to CAPT Paljakka’s custody and use. The DSA recommended that CAPT Paljakka was to be dealt with by administrative action by way of a formal warning or censure and that his access to security systems be restricted with a review of his security clearance.

\(\text{\textsuperscript{9} Exhibit 130 para.2 Soldier 11} \)

\(\text{\textsuperscript{10} Exhibit 57} \)
As a result of the breach:

(a) his access to classified material was to be supervised by a senior officer
(b) that he was not to loan a laptop or other equipment from SOHQ staff and he was not to take such equipment into the Headquarters
(c) that he was not to transfer confidential or classified material to data storage Medium (disks etc) unless approved by the senior supervising officer.

The document outlining the breach and the recommendation states that CAPT Paljakka had not been willing to provide information as to the origin of the classified material. The result of that failure was to highlight that others were involved in the transaction who may continue to breach the National Security Rules. The matter was regarded as being serious. The final sanction placed on CAPT Paljakka at the time was that following the security clearance review, if his secret or top secret clearances were withdrawn then he would be removed from SOHQ.

The security incident referred to was a year before CAPT Paljakka’s death and does not appear to have had any effect upon his career or to his well being.
SUMMARY OF EXPERT EVIDENCE AS TO MEDICAL AND THERAPEUTIC EVIDENCE

(i) Professor McFarlane summarised the evidence of Ms Kylie Rogers as follows:11

- On returning from Afghanistan CAPT Paljakka commenced to have nightmares.
- Ms Rogers was told by CAPT Paljakka that he had witnessed the shooting of an Afghan man who was left to die screaming in pain.
- Witnessed the rape of a boy (child) by an Afghan man when traveling through a village in a troop carrier.
- CAPT Paljakka's drinking increased on his return from Afghanistan and he became physically violent and verbally abusive toward her.
- That CAPT Paljakka had taken Ecstasy (MDMA) on one occasion prior to his deployment and again in June 2006. These instances were prior to being charged in July 2006.
- Ms Rogers had not been ill as suggested by CAPT Paljakka when he left the AREP program.
- In August 2006 CAPT Paljakka became nauseated and indicated that he had seen or expressed something that had given him a sudden recollection (flashback) of what he had seen overseas (specific details were not revealed). Professor McFarlane concluded that the occurrence was suggestive of a triggered intrusive recollection.
- (Paragraph 32). It was following the above incident that CAPT Paljakka purchased illicit drugs more frequently and he felt emotionless on anti depressants and illicit drugs made him feel more himself.
- CAPT Paljakka had been given a warning by someone at work not to breach the Secrecy Act. Treating doctors implied that this had interfered with his capacity to be frank with his doctor.
- The sending of private naked photographs of her to her employer and she informed the Civil and Military Police of the matter.

Professor McFarlane concluded that the use of alcohol prior to deployment was confirmed and the use of drugs appears to have been triggered by the "extra marital affair" by Ms Rogers together with an argument involving his family which was also prior to his deployment.

Reference was also made to the statement of Dr. Kim Dunstan12 where he experienced the view that he was surprised to find that CAPT Paljakka was engaged in full time work given his more recent history. Dr. Dunstan's view was that it was inappropriate for him to be engaged directly with armaments and explosives. Dr.

11 Statement Exhibit 123 p.7
12 Exhibit 37 para.7
Dunstan had downgraded the medical classification of CAPT Paljakka to MEC 301.13

Comment

The conclusion reached by Professor McFarlane is that there had been an important failure of the transmission of information following CAPT Paljakka’s earlier discharge.

Professor McFarlane also examined the statements of Dr. Kim Anderson,14 Dr. Lee Hardwick15 and Dr. Mark Walker16

Dr. Anderson’s role was to provide advice and guidance on medical policy to other doctors and commanding officers. On 13 September 2006 when speaking with Dr. Dunstan she became aware that CAPT Paljakka had been admitted to the AREP program.

The Professor commented: - this statement highlights the difficulties of the transmission of information between Defence facilities particularly of lodging units such as SOHQ.

Another conclusion was that any PTSD that CAPT Paljakka experienced could have been treated at the same time as alcohol abuse. This view was contrary to the view of Dr. Lee Hardwick, CAPT Paljakka’s treating psychiatrist, who was of the view that the two problems should be treated separately, the alcohol abuse first.17 However Professor McFarlane concluded that the PTSD and the depression were already being treated by the prescription of Effexor. At page 10 of his statement18 after outlining an account of the evidence of Soldier 9 in relation to the situation in Afghanistan,19 Professor McFarlane commented:

"This account raises significant questions as to the veracity of CAPT Paljakka having viewed the scenes claimed in Afghanistan."20

In addition to the above evidence of Soldier 9 the evidence of CAPT Darren Neve was also examined and analysed with regard to the contact he had with CAPT Paljakka particularly with regard to evidence regarding encounters between the two on 27/28 December 2006 and again on 24 January 2007.21

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13 Exhibit 37
14 Exhibit 41
15 Exhibit 42
16 Exhibit 43
17 Exhibit 42 para.31
18 Exhibit 123 para 41
19 Exhibit 115 and T/s pp 678-681
20 Exhibit 123 p.11, para41
21 Exhibits 113/114
The evidence of CAPT Neve refers to a telephone call on 24 January 2007 he had received from Ms Rogers who had told him that CAPT Paljakka had attempted suicide. The allegation was denied by CAPT Paljakka when contacted by Neve. He also stated that CAPT Paljakka had asked him to act as an executor of his Will.

Professor McFarlane commented on this evidence: 22

"This highlights several issues. Firstly, it appears that around 27 December 2006 CAPT Paljakka had been significantly suicidal given that he was discussing his Will. This is an important risk factor in predicting suicide. Furthermore after the subsequent phone call from his wife alerting him of CAPT Paljakka’s risk of suicide, Mr. Neve took what steps he could given that he was deployed...

His account of the exposures that CAPT Paljakka had had whilst in Afghanistan further raised the possibility that he had exaggerated and/or misrepresented the facts.

An examination of Psychologist Dr. Steven Rayner’s statement 23 indicates he was unaware of the use of illicit drugs by CAPT Paljakka and that he had no reason to suspect that there was. Similarly despite CAPT Paljakka being unable to tell his parents about the prospect of losing his commission he did not believe that he had suicidal ideation.

The comment by Professor McFarlane was: 24

This raises questions as to how the information as to the use of drugs had not been passed on to Mr. Rayner.

Professor McFarlane acknowledged that the evidence of the witnesses whose evidence he had examined highlighted significant doubt as to the exposures claimed by CAPT Paljakka. The Summary 25 outlined the possibilities which were open on the evidence.

1. CAPT Paljakka was factitiously and knowingly misreporting his symptoms.
2. CAPT Paljakka was exposed to the events but it was unknown to his fellow officers.
3. CAPT Paljakka had developed some traumatic memories that were elaborations of what he had heard and been told about during his service in Afghanistan.

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22 Exhibit 123 p.11, para 42
23 Exhibit 48
24 Exhibit 123 p.12
25 Exhibit 123 p.13
This is a recognised phenomena in some individuals with post traumatic stress disorder.

The conclusions reached by Professor McFarlane in the Summary outline the possibilities that are open on the evidence:

- It is unclear as to CAPT Paljakka being under direct threat in Afghanistan.
- The RtAPs record suggests that he did see dead bodies and expressed sufficient distress to satisfy for PTSD.
- If the above was the trigger, then it is open to conclude that there was secondary elaboration based on the hearsay of other events... when nightmares occur and they are developed as being reality. This is more probable in an individual who has an unstable state of mind... as in the case of CAPT Paljakka.
- The degree of substance abuse in the past not known to his commanding officers. Instability in his personal life not known to commanding officers and were not disclosed by CAPT Paljakka.
- The necessity to move CAPT Paljakka from one treatment service to another. FMC EAST, BNH to AREP and finally to St. John of God caused problems in that there were significant opportunities for a sequential picture of the emerging suicide risk NOT to be communicated.
- The clinicians acted on the information before then and it is only with the luxury of hindsight that the relative suicide risk became fully apparent.
- The main issue that emerges is the problem of transferring information between medical institutions – FMC – BNH – AREP.  

(ii) Summary of ancillary medical treatment – Psychologist and admission to AREP

CAPT Paljakka at the time of interview with Louise Hawkins, Registered Nurse IHSB Holsworthy, indicated to her that he had no suicidal or homicidal ideation. Whilst an inpatient at BNH following his admission following a request by Dr. Dunstan, CAPT Paljakka consulted Mr. Steven Rayner a clinical psychologist who had undertaken specific training in Post Traumatic Stress Disorder at St. John of God Hospital Sydney and a similar course at the Australian Centre for Post Traumatic Mental Health and is presently engaged in writing a doctoral thesis on the type of PTSD he has dealt with about 10/12 patients diagnosed with PTSD. He first saw CAPT Paljakka on the 3rd August 2006 and the conversation between the two related to the Captain’s alcohol

26 Exhibit 123 p.13 (Summary)
27 T/s p.355 35-37
28 Statement Exhibit 48
problems as he had been admitted on a crisis basis with his alcohol related issues.29

CAPT Paljakka told Mr. Rayner that his history of alcohol abuse dated back to the time of his training at the Royal Military College Duntroon (RMC) and he had a positive attitude to seeking help and was cooperative in the process, appearing to display a genuine commitment to change.30 Arrangements were made to enable assessment of CAPT Paljakka at ERADPC (Louise Hawkins).31

There were numerous other consultations with CAPT Paljakka however on 8th August 2006 it was recommended that he return to work pending being sent on the AREP program at RAAF Base Richmond NSW. On the 18th August 2006 a “binge drinking” session resulted in being taken to the Royal Prince Alfred Hospital (RPA) and then being readmitted to BNH.32 It was at that time that CAPT Paljakka told Mr. Rayner that he was suffering from PTSD relating to his deployment in Afghanistan. CAPT Paljakka was reticent to speak about Afghanistan due to security concerns. Mr. Rayner did not accept that PTSD was present.33

Ms Louise Hawkins (Registered Nurse) of the Alcohol Tobacco and other Drug Clinical Coordinator at IHSB referred CAPT Paljakka to the AREP program at 3CSH RAAF Base Richmond.34 The evidence of Ms Hawkins has been referred to earlier in this report.

Ms Hawkins recorded the quantities of alcohol consumed on a daily basis by CAPT Paljakka supra. She also recorded on an assessment form relating to CAPT Paljakka:35

(a) CAPT Paljakka’s father had a history of alcohol problems; and
(b) His previous use of alcohol was to enable him to cope with personal relationship issues.

The Alcohol Education and rehabilitation Program (AREP) 3 Combat Support Hospital (3CSH) RAAF Base Richmond is of four weeks duration focusing on abstinence concentrating on the reasons alcohol is used by the patient and how to achieve an abstinence free lifestyle. SGT Glenn Andrew McGregor36 was appointed CAPT Paljakka’s primary counselor from a team of counselors at the establishment.37

29 T/s p.214-1.44-50
30 Exhibit 48.p.21 para.6
31 Exhibit 48.p.3 para.8
32 Exhibit 48 p.3/4 para.9
33 Exhibit 48 p.4 para.10
34 Exhibit 105 para.4
35 Exhibit 31
36 Exhibit 86 Statement
37 T/s p.476-1.22-31

16
The AREP program is the sole alcohol rehabilitation program with the Military. Patients on entering the program sign a confidentiality statement enabling drug use to be reported to the chain of command. This practice should be a universal one throughout the ADF to enable commanders to make informed decisions regarding personnel duties.

The observation of SGT McGregor regarding CAPT Paljakka was that he was paranoid about information and stated on many occasions that as an officer he was privy to information that he could not disclose. SGT McGregor’s opinion was that CAPT Paljakka was not displaying any physical signs of sustained alcohol abuse and did not appear to be depressed in any way. SGT McGregor also noted that CAPT Paljakka was very guarded about his emotions and feelings. He told SGT McGregor that both his father and wife drank heavily and he felt he was unable to control his drinking and used alcohol to relieve workplace stress. His opinion of this conversation was that CAPT Paljakka had been a heavy drinker for a long period of time and for the 12 months prior to his attendance at AREP it had escalated out of control.

CAPT Paljakka left the course prematurely citing his wife’s ill health as the reason.

CAPT Paljakka did not disclose to SGT McGregor any information about his deployment to Afghanistan nor was any information disclosed regarding any drug use. The consequences of an early departure from the course were explained to CAPT Paljakka and he was made aware that his commanding officer would receive a report on the matter. CAPT Paljakka simply did not accept that there were benefits from the program.

It is of significance that there was no evidence as to both Mr. Paljakka (Snr) and Ms Rogers having drinking problems or were heavy drinkers.

There were conflicting observations regarding CAPT Paljakka from SGT McGregor and Mr. Michael Sergeant (Counsellor AREP program). He (as did SGT McGregor) described CAPT Paljakka as being guarded however the two men had opposite views of whether or not he was engaging in the AREP program. One other counselor SGT Dianne Patricks although not directly involved in his counseling came to the view that his alcohol dependence was

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38 Exhibit 86 para.9
39 Exhibit 86 para.11
40 Exhibit 86 para.11
41 Exhibit 86 para.12
42 Exhibit 86 para.15
43 T/s p.480-1.1-2
44 T/s p.482-1.21-23
45 Exhibit 87 Statement para.6
46 T/s p.493-5.14
advanced. The basis for her finding was the disclosure by CAPT Paljakka that in the morning to "stop the shakes" he would consume alcohol. Her opinion was that those symptoms would not develop in a period of less than 6 months. Another senior Alcohol and Drug Counsellor at AREP Crystal Lockard observed the same reticence in CAPT Paljakka to disclose personal matters during the AREP program. Attempts to find the underlying reasons regarding his alcohol dependence were unsuccessful and he was dismissive of attempts to help him and although being able to comprehend "coping strategies" he was not able to show why he drank.

It is of significance during the time of the extensive counseling he did not disclose any of the traumatic events relating to Afghanistan which were disclosed to others. He did not at any time correlate his drinking with any particular event or events he experienced in Afghanistan.

(iii) The evidence of Mr. Arvi Paljakka

The evidence of Mr. Arvi Paljakka father of the deceased is of importance with respect to the question of his son's alcohol dependency. Following are excerpts from the statements tendered; the foregoing documents were the subject of evidence on 12 November 2007, however between the adjournment of the COI and it's resumption on 23 January 2008 a further supplementary statement was made and tendered as Exhibit 132.

It is significant in the proceedings that Mr. Arvi Paljakka was provided with an interpreter with whom he appeared content. There was no submission made regarding the qualifications or the ability of the interpreter during the first two weeks of the hearing between 5.11.2007 and 14.11.2007. The interpreter was sitting with Mr. Paljakka when he gave evidence on 12.11.2007 without any suggestion of incompetence of the interpreter. My observation of the evidence of Mr. Paljakka was that his responses to questions were in the majority immediate and clear.

Following the adjournment on the 14th November 2007 Counsel for the Deceased, LT Hogan, complained to the Counsel Assisting as to the competence of the interpreter.

On the resumption of the hearing a different interpreter was present. I will express here that I could not detect any reason for the change of interpreter.
Mr. Paljakka’s evidence of a number of matters varied from document to document, statements obtained by various investigative authorities.

- On admission to BNH, 13 August 2006, CAPT Paljakka told his father that his alcohol problem related to his deployment to Afghanistan.
- However in his statement to the NSW Police made on 6 March 2007 following the death of his son, Mr. Paljakka stated that his son had a drinking problem and he had been drinking heavily for some time and it had been seen not only by him but also his wife.
- There is a further complication with the statement [Exhibit 80 is an Addendum to Exhibit 79]. The Addendum sought to exclude one matter which did not relate to alcohol issues and he reaffirmed all other parts of the statements.

During his evidence Mr. Paljakka resiled from the content of his police statement because when he made it he did not have an interpreter. He conceded that before his son’s deployment to Afghanistan he did speak to him regarding his drinking however in the statement 23.1.2008 he totally denied that his son had problems with alcohol.

Comment

I am of the view on the evidence to hand that Mr. Paljakka is mistaken with regard that the alcohol addiction of his son only commenced following his return from Afghanistan. There is a plethora of evidence to show that he was alcohol addicted for a long period of time, at the very least two years.

The evidence of Ms. Rogers was that he was not a heavy drinker prior to Afghanistan, other than he drank heavily on occasions, she did not think he had a problem with alcohol. Ms. Rogers went on to state that her husband when he did drink, he drank heavily. She also went on to state that when he drank he was often uncontactable for days.

Ms. Rogers’ evidence was that on his return from Afghanistan in May 2006 there was not a discernable difference in his drinking however by June/July his alcohol consumption became more significant. An important aspect of Ms. Rogers’ evidence was the conformation of the reason why her husband withdrew from the

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53 Exhibit 81 para.4
54 T/s p.472-1.8-p.473-1.15
55 T/s p.472-24-33
56 Exhibit 132
57 Exhibit 63 para.16
58 T/s p.339-1.42 - p.340-1.9
AREP program was, that he did not believe that the program was of benefit to him and not because she was ill, as was submitted by him at the time.\textsuperscript{59}

It was also known to Ms. Rogers that in addition to drinking to excess, he was also taking illicit drugs particularly crystal methyl amphetamine in addition to amphetamine, ecstasy and other drugs.\textsuperscript{60} By December 2006 CAPT Paljakka was also mixing prescription drugs and alcohol\textsuperscript{61} and that Mr. Aaron Filewood had supplied such drugs to him (sleeping tablets).\textsuperscript{62}

It was known to Ms. Rogers that following the breakdown of his relationship in Darwin CAPT Paljakka was drinking heavily\textsuperscript{63}. In outlining his drinking habits she acknowledged that he would drink on a daily basis and on weekends increase the intake.

From 2.8.2006 the alcohol consumption by CAPT Paljakka continued throughout the time he was in medical care, empty bottles being found when at St. John of God Hospital hidden under his bed and also in the ceiling cavity.\textsuperscript{64}

CAPT Paljakka also told Soldier 1 that he had been drinking excessively for 2 or 3 years but it had increased when he discovered that his wife had an extra marital affair.\textsuperscript{65}

That knowledge then triggered the increase. CAPT Paljakka had at that time commenced to drink before going to the base. The smell of liquor had been disguised by eating. It was also revealed by CAPT Paljakka that in July 2006 whilst drinking he had “blacked out.”

The evidence supports a conclusion that Captain Paljakka had been consuming alcohol to excess for at least the final three years of his life, however it is possible that he had indulged since attending RMC Duntroon. He was able to disguise his drinking to all people to whom he came in contact.

\textbf{(iv) Drug Use by CAPT Paljakka}

The situation regarding drug use by CAPT Paljakka was investigated by the Commission of Inquiry. The evidence presented supported not only the use of illicit drugs but also the taking of prescription drugs. The evidence supports a conclusion that CAPT Paljakka was taking illicit drugs on a regular basis during

\textsuperscript{59} Exhibit 63 para.29
\textsuperscript{60} Exhibit 63 para.32
\textsuperscript{61} Exhibit 63 para.40
\textsuperscript{62} Exhibit 63 para.44
\textsuperscript{63} T’s p.327-1-26-30
\textsuperscript{64} Exhibit 46
\textsuperscript{65} Exhibit 56 para.8
the twelve months prior to his death and evidence and suggests that he had been engaged in drug taking for a far longer period than the twelve months.

It is believed by Ms Rogers that CAPT Paljakka first took cocaine before he was 18 years old together with other drugs.\textsuperscript{66}

Ms Rogers' evidence was that after CAPT Paljakka returned from a three day operation in September 2006 his mental condition worsened and his purchase of illicit drugs escalated.\textsuperscript{67} By November 2006 he was drinking to excess using crystal methylamphetamine and into December he was using a cocktail of drugs (prescription) and alcohol.\textsuperscript{68} It was at that time that Aaron Filewood\textsuperscript{69} supplied and assisted CAPT Paljakka to obtain illicit drugs and supply prescription drugs (sleeping tablets). Drugs were used to induce sleep, to stimulate him and keep him awake\textsuperscript{70}

(v) It is clear from the evidence that the use of illicit drugs by CAPT Paljakka had been a long term indulgence.

Following the post mortem drugs were detected in CAPT Paljakka's blood. The Toxicology Report showed the following result:

\[ .18 \text{ mg/L of cocaine} \quad \text{-- described by the Pathologist Dr. Orde a therapeutic level --} \]

\[ \text{it would provide a degree of intoxication but not as much to be toxic in its own right} \textsuperscript{71} \text{and alcohol } .081 \text{ g/100ml}. \textsuperscript{72} \]

In addition to the Toxicology Report of the blood and urine samples taken from CAPT Paljakka, toxicology analysis was performed on two small yellow balloons, containing a grayish-yellowish paste, wrapped in clear plastic wrap, found in Captain Paljakka's stomach.\textsuperscript{73}

The analysis of the balloons found:

Paracetamol, caffeine, codeine, morphine, acetylcodine monoacetylmorphine, diacetylmorphine and papaverine --- by limited routine screening.\textsuperscript{74}

There was no evidence that any of the above substances in the balloons had entered the blood stream.

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{66} T/\textit{s} p.358 - 1.27-30
\item \textsuperscript{67} Exhibit 63 para.32
\item \textsuperscript{68} Exhibit 63 para.40
\item \textsuperscript{69} Exhibit 88,89 Addendum Statement
\item \textsuperscript{70} Exhibit 63 para.32
\item \textsuperscript{71} T/\textit{s} p.64 - 1.24-26
\item \textsuperscript{72} Exhibit 22 p.10
\item \textsuperscript{73} Exhibit 22 p.3 para.5
\item \textsuperscript{74} Exhibit 22 Cert. of Analysis p.2
\end{itemize}
\end{footnotesize}
It can be concluded that CAPT Paljakka had swallowed the balloons when confronted by the police in order to avoid his arrest for possession.\textsuperscript{75}

It is also significant that there were numerous recent injection sites over both arms.\textsuperscript{76} The injection sites had been caused within 2/3 days before death\textsuperscript{77}

In her evidence Ms. Rogers stated that in July 2006 CAPT Paljakka was arrested for possession of amphetamines and although she did not subsequently attend Court with him she did however arrange a solicitor for her husband. She was shocked by that event although she was privy to him taking what she termed “recreational” drugs and she had witnessed him taking Ecstasy and purchasing Ecstasy from her sister’s fiancé in March/April 2006 before deployment to Afghanistan. Following his return from Afghanistan CAPT Paljakka was sent Valium by his brother in Queensland.\textsuperscript{78} He had also been to see a doctor at Holmesworthy and had been prescribed Valium.\textsuperscript{79} CAPT Paljakka had become aggressive and unpredictable. Following the receipt of Valium from his brother. On one occasion when he was unable to find the Valium in the house which he had received from his brother, CAPT Paljakka became aggressive and violent to his wife necessitating attendance by the Police who recommended an Apprehended Violence Order. She declined as it would affect CAPT Paljakka’s job regarding carrying a weapon.\textsuperscript{80}

Ms. Rogers stated that CAPT Paljakka had told his Chief of Staff (COS) at SOHQ about the drug charge he faced. CAPT Paljakka told his wife that the COS told him that if he was found guilty he would be discharged from the Army,\textsuperscript{81} however the COS Soldier 5 in his evidence, stated that he had no knowledge of the drug charge or any involvement by CAPT Paljakka with drugs and that CAPT Paljakka had not reported the matter.\textsuperscript{82}

- During the Inquiry it was clear from the evidence that no ADF officers or medical practitioners were aware of the use of drugs by the deceased. On 30 January 2007 when Soldier 1 saw what he believed to be a puncture mark on CAPT Paljakka’s arm and passed that information on to a nurse at BNH.

- The information that Soldier 1 stated he passed on to a nurse at BNH does not appear on the medical records of the Hospital.\textsuperscript{83}

\textsuperscript{75} T/s p.66 - 1.5-35  
\textsuperscript{76} Exhibit 22 Autopsy Report p.3  
\textsuperscript{77} T/s Dr. Orde p.67  
\textsuperscript{78} Exhibit 63 para.24  
\textsuperscript{79} Exhibit 63 para.26  
\textsuperscript{80} Exhibit 63 para.24  
\textsuperscript{81} Exhibit 63 T/s p.365- 1.26-31  
\textsuperscript{82} T/s p.371- 1.9-13  
\textsuperscript{83} Exhibits 29 and 30
On the 23rd January 2008 when Soldier 1 was recalled to the Inquiry he stated that prior to CAPT Paljakka’s admission to BNH (on 30.1.2008) he found a syringe in the Captain’s car. However he had confronted CAPT Paljakka about the syringe.

Soldier 1 had been informed by the police at Kings Cross that CAPT Paljakka was known to them; there was no information passed on to him regarding CAPT Paljakka having been charged with possession of amphetamines.

None of the foregoing information was passed on to any other officer in the chain of command of CAPT Paljakka.

Soldier 1 decided that he would not pursue any disciplinary action against him and his reasoning was that offences under the Defence Force Disciplinary Act were already being passed and Soldier 1 did not believe that any further charges would assist anyone however the evidence of Soldier 11 had a recollection of information being given to him in late December or January 2007 by Soldier 1 relating to drug issues with respect to CAPT Paljakka. His memory is impaired to some degree due to an accident he experienced during a fall which concluded in a fractured skull.

CAPT Paljakka was provided with prescription medication on three occasions:

- July 2006 when he was given Scrapax or Valium
- 14th September 2006 and
- October 2006 when again he was supplied with the same drugs by Mr. Aaron Filewood.

In June or July 2006 Mr. Filewood was visited in Canberra by CAPT Paljakka who had a glass pipe in his mouth and he told Mr. Filewood he was smoking either Cocaine or Ice (Methamphetamine). The consequences of drug taking in the Military were known to Mr. Filewood that when detected a discharge would ensue.
In September 2006 whilst a patient in BNH CAPT Paljakka rang Mr. Filewood telling him that he was being cared for by good people but it was a joke and it was easy to discharge yourself from the hospital.\textsuperscript{92}

At the end of November 2006 Mr. Filewood traveled to CAPT Paljakka’s house in Sydney. He found CAPT Paljakka extremely drunk and under the influence of drugs ("high"). It was revealed that CAPT Paljakka had ingested methylamphetamines\textsuperscript{93} both of the men then took "pink pills" which were understood by Filewood to be illicit drugs.\textsuperscript{94} CAPT Paljakka wanted to purchase more drugs and they both traveled to Kings Cross for that purpose.\textsuperscript{95} On returning to CAPT Paljakka’s home he had some white powder which Filewood believed was heroin.\textsuperscript{96} Later that same evening CAPT Paljakka wanted more drugs and again they traveled to Kings Cross. Following their return to Roselle CAPT Paljakka appeared to overdose on the drugs and became unconscious. He was ignored by Mr. Filewood when in an unconscious state and although he remained there, he did not call emergency services or obtain medical assistance.\textsuperscript{97}

\textbf{Comment}

The action taken by Mr. Filewood was one with a great deal of risk with regard to the safety at that time of CAPT Paljakka which in the event of a disastrous outcome may have led to criminal charges being laid.

The Military were also not notified of the events supra.

It was not until the following afternoon that CAPT Paljakka regained consciousness.\textsuperscript{98} Mr. Filewood did not notify the police, the military or medical services because of the ramifications it would have on his friend.\textsuperscript{99} Following this incident CAPT Paljakka and Aaron Filewood had telephone contact on Christmas Eve and New Year’s Eve when Mr. Filewood was requested to obtain drugs for him and was abused by CAPT Paljakka.\textsuperscript{100}

On the 29\textsuperscript{th} July 2006 as recorded in the Downing Centre Local Court\textsuperscript{101} CAPT Paljakka appeared as a result of his arrest in Kings Cross by the NSW Police. On the 15\textsuperscript{th} December 2006 the charges were conditionally discharged under S32 of the Mental Health (Criminal Procedure) Act 1990 (NSW). The conditional

\textsuperscript{92} Exhibit 88 para.17
\textsuperscript{93} T/s p.513-1.23
\textsuperscript{94} T/s p.514-1.25-27
\textsuperscript{95} Exhibit 88 paras.23-25
\textsuperscript{96} Exhibit 89 para.9
\textsuperscript{97} Exhibit 88 para.27 T/s p.503-504
\textsuperscript{98} Exhibit 88 para.24
\textsuperscript{99} T/s p.503-1.14-25; p.501-1.25-30
\textsuperscript{100} Exhibit 88 para.33-35
\textsuperscript{101} Exhibit 100
discharge order contained a number of conditions including the defendant was subject to a condition that he complied with guidance given by Dr. Hardwick.

Ms. Rogers' evidence was that she was instrumental in engaging a solicitor Mr. Chris Watson, to appear for CAPT Paljakka. CAPT Paljakka was also unable to obtain medical or psychiatric evidence from military doctors because of military policy with regard to soldiers with a conviction for drug offences. There was a distinct possibility that he would lose his employment. CAPT Paljakka in those circumstances decided that he would obtain copies of medical documents and copy them. The copies were tendered to the Magistrates' Court on his plea of guilty. CAPT Paljakka copies them at a time when he was being transferred from Fleet Base and BH1. He photocopied the file and a substantial number of medical reports were attached to the Court documents which were tendered. The copying of these documents was not authorised.

Comment

It is in my view extremely disturbing that documents from his medical file could be photocopied by CAPT Paljakka. The security and confidentiality surrounding such documents was breached and was not detected until the investigation by the COI Investigator, SGT S. O'Dowd.

It is also surprising that a magistrate in the Downing Centre Local Court proceeded without having any enquiry regarding the origin of the documents and the fact that the magistrate was dealing with a member of the military for a serious drug offence.

The order made by the magistrate purports to make CAPT Paljakka subject to continued treatment by Dr. Lee Hardwick without having the Doctor's consent and approval.

The medical documents were obtained by CAPT Paljakka following discussion with his solicitor who was aware of the circumstances in which the documents were obtained.

It is interesting to note that CAPT Paljakka gave his military address to the Court as Orchard Hills NSW; his previous posting to that of the SOHQ Garden Island. The acceptance by the Court without any enquiry with CAPT Paljakka's unit particularly when his medical records clearly state that his unit was SOHQ. The process through the court system by CAPT Paljakka without any checks being made by the prosecuting authority or the Court is in my view totally unsatisfactory.

Dr. Lee Hardwick who was the psychiatrist named in the court order did not have any information or knowledge about with regard to CAPT Paljakka's illicit drug use or his conviction in the Local Court Sydney.

102 Exhibit 64.
The circumstances surrounding the arrest of CAPT Paljakka at Kings Cross on 28 July 2006 was subjected to the provision of DI(G) PERS 55-4\(^{103}\) and was the subject of evidence by Staff Officer at SOHQ. A member of the Military must report the issue by way of an incident report.\(^{104}\) There is no evidence that CAPT Paljakka ever reported the issue of his arrest. The matter was suppressed by CAPT Paljakka from his chain of command.

\(^{103}\) Exhibit 94

\(^{104}\) T/s p.337-127-30.
TERMS OF REFERENCE – INQUIRY TASKS

5(a) CIRCUMSTANCES SURROUNDING THE DEATH OF CAPTAIN ANDREW ARVI PALJAKKA

(i) Time and place of death

Captain Andrew Arvi Paljakka died on 26th February 2007 in room 702 of the Hotel Kings Cross at sometime between 6.15am and 12.15pm.\textsuperscript{105} CAPT Paljakka was found by Soldier 1 together with Naval Coxswains LSBM Aaron David Smith\textsuperscript{106} and LSN Mark Leslie Tiplady.\textsuperscript{107} The New South Wales Police attended and CAPT Paljakka was conveyed to St. Vincent’s Hospital where he was pronounced dead on arrival.\textsuperscript{108}

(ii) The manner and cause of death

CAPT Paljakka was found with a shoelace tied around his neck suspended inside a wardrobe. The shoelace was tied to a clothing rail. Although the rail was only 1.75 m from the ground the deceased’s head was 30 cm below the rail. Both of CAPT Paljakka’s feet were on the floor; one inside the wardrobe and one protruding.\textsuperscript{109}

An examination of the scene by the NSW Police concluded that there was no evidence of suspicious circumstances.

A Post Mortem was conducted on the body of CAPT Paljakka by Dr. Matthew Orde. It was determined by Dr. Orde that the cause of death was hanging.\textsuperscript{110} Dr. Orde’s opinion was that the manner of death and the circumstances were consistent with suicide.

(iii) Any fact and circumstances establishing that the death arose out of or in the course of his service in the Army

Following is a summary of evidence presented to the Commission of Inquiry (COI) which includes material relating to the complete period of service by CAPT Paljakka and his history.\textsuperscript{111} CAPT Paljakka’s service in the Australian Regular Army (ARA) commenced on 28 March 1998 until the time of his death on 26 February 2007.\textsuperscript{112}

\textsuperscript{105} Exhibit 1 para.13 Statement of Constable Mansson
\textsuperscript{106} Exhibit 15
\textsuperscript{107} Exhibit 16
\textsuperscript{108} Exhibit 4
\textsuperscript{109} Exhibit 2 Report of death to Coroner p.6, Statement of LSBM ML Tiplady, para.11, 12.
\textsuperscript{110} Exhibit 23 Report of Dr. Orde
\textsuperscript{111} Exhibit 35 ADO Service Record
\textsuperscript{112} Exhibit 35 ADO Service Record
The evidence presented to the COI encompassed in addition to his military service, aspects of his personal and private life which were relevant to the issues before the Inquiry.

At the time of his death CAPT Paljakka was a member of the Australian Regular Army.

The material that follows enabled the COI to make findings of fact with respect to the Terms of Reference contained in the relevant document dated 15 January 2008 Terms of Reference (Amendment No.1)

Alcohol abuse:

1. Evidence before the inquiry was suggestive of CAPT Paljakka having an alcohol abuse problem prior to his deployment to Afghanistan

2. In the evidence of Mr. Aaron Filewood\(^\text{113}\) who had first met CAPT Paljakka when he was a student at Narrabundah College Canberra in Years 11 and 12. Mr. Filewood was a member of the school staff and a friendship developed between the two which although had a break of some years, remained until the death of CAPT Paljakka in February 2007. Mr. Filewood stated that he encouraged CAPT Paljakka to join the military.

3. In August 2000 a psychology report prepared by LT McCormack concluded that CAPT Paljakka was not alcohol dependent but was assessed as “situationally (sic) and socially dependent. The report was prepared following a conviction by CAPT Paljakka of Driving under the Influence of Alcohol. (This issue is also referred to by Professor McFarlane)\(^\text{114}\)

4. In 2001 Mr. Filewood was invited by CAPT Paljakka to visit him in Darwin about September/October of that year. CAPT Paljakka was at that time posted as a LOG PLANS officer at 1 Armoured Regiment followed by transfer to 1CSSB as an Admin Officer.\(^\text{115}\) Mr. Filewood’s observation of CAPT Paljakka at that time was that he was drinking extremely heavily with his girlfriend of that time. He was not able to give a precise amount of alcohol consumed by CAPT Paljakka during his 10 day visit but it was “mainly beer...heaps quite a lot.\(^\text{116}\) His evidence was that prior to his observations in 2001 CAPT Paljakka rarely drank. At the end of the visit there was a falling out between the two men.\(^\text{117}\) Mr. Filewood's

\(^\text{113}\) Exhibit 88 p.1 para.2
\(^\text{114}\) Exhibit 122 p.2
\(^\text{115}\) Exhibit 35 p.2
\(^\text{116}\) T/s p.498-120-21
\(^\text{117}\) Exhibit 88 para.9 T/s p.498-1.44
observation was which caused arguments and CAPT Paljakka stated he couldn’t live with her anymore.

5. It was not until 2003 that CAPT Paljakka telephoned Mr. Filewood to tell him that he had met Ms Kylie Rogers. He had previously been informed that the relationship had ceased. Mr. Filewood did not have a friendly association with Ms Rogers and considered her to be domineering. There was no evidence during 2003 of any excessive drinking by CAPT Paljakka.

6. In March 2006 Mr. Filewood again received a telephone call from CAPT Paljakka. The two had not had any contact because he was not invited to CAPT Paljakka’s wedding. The telephone call related to Ms. Rogers having engaged in an extra marital affair. Following the call of March 2006 and during subsequent calls Mr. Filewood concluded that CAPT Paljakka was drinking heavily again. The observations were a surging of words and periods of crying by the deceased and admission of drinking. He stated that he warned CAPT Paljakka of the consequences drinking so much. He described CAPT Paljakka as follows:

"I would say that Drew was crushed".

7. In addition to the evidence of Mr. Filewood, Soldier 3 who worked at SOHQ with CAPT Paljakka observed that he was affected by alcohol on occasions. Soldier 3’s observations were that CAPT Paljakka smelt of alcohol and was shaking he believed from alcohol withdrawal. Soldier 3 confronted CAPT Paljakka who denied the allegation and the issue was never passed on to the chain of command. It is interesting that except for Soldier 3 there is no evidence from any of the SOHR members about CAPT Paljakka’s drinking. Soldier 3 observations of CAPT Paljakka were prior to his deployment to Afghanistan.

8. The situation regarding the consumption of alcohol by CAPT Paljakka prior to his deployment was the subject of an opinion by Professor McFarlane. There is no evidence to support the proposition that any of his supervisors were aware of his psychological problems. It is also clear from the evidence that CAPT Paljakka withheld his problems from his colleagues and senior officers and his family.

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118 Exhibit 88 p.3 para.8 and p.4 para.11
119 T/s p.499- l.11-12
120 T/s p.499- l.25-27
121 T/s p.501- l.1-20
122 T/s p.499- l.31
123 T/s pp 333-334- l.45-51, l.1-8
124 Exhibit 122 p.42
9. It was not until 31\textsuperscript{st} July 2006 that CAPT Paljakka voluntarily attended Fleet Base East Medical Centre (FBE-MC) and informed Dr. Kim Dunstan\textsuperscript{125} that he required assistance for his alcohol abuse problems. It is significant that CAPT Paljakka went to FBE-NC on his own initiative and there is no doubt that was a cry for help concerned as to where he was heading being an officer in the Australian Army and in a position which required clear thinking - it was a dangerous occupation. He told Dr. Dunstan that he was drinking heavily at work and was experiencing severe anxiety at the time of presentation and he was having “blackouts” during working hours.\textsuperscript{126} He told Dr. Dunstan that he had alcohol problems for many years.\textsuperscript{127} Dr. Dunstan’s evidence was that he was told fifteen years however he agreed he may have made a mistake about the exact time but it was many years not just since his deployment to Afghanistan. The evidence corresponds with that of Mr. Aaron Filewood that he believed CAPT Paljakka drinking commenced when in Darwin in 1999. CAPT Paljakka did not make any reference to the taking of illicit drugs to Dr. Dunstan. It is clear from the evidence that he had a drug problem as he had been arrested for possession of amphetamines by a police officer in Kings Cross later appearing in the Magistrates’ Court in Sydney. That issue will be dealt with further in the report.

10. The consultation with Dr. Dunstan resulted in CAPT Paljakka agreeing a course of treatment for his alcoholism which required his being admitted to Balmoral Naval Hospital (BNH).

Dr. Dunstan spoke with Dr. Amanda Badham at BNH and she accepted admission of CAPT Paljakka. The communication by telephone between the two institutions regarding admissions and discharges was the norm.\textsuperscript{128} Ms Kylie Rogers was contacted by Dr. Dunstan and she attended FBE-MC and accompanied CAPT Paljakka to BNH.

The day following his admission CAPT Paljakka gave Dr. Amanda Badham (BNH) the history regarding his problem with alcohol.\textsuperscript{129} He told Dr. Badham that he had alcohol dependence for about 2 years and it had worsened over the previous five to six months.\textsuperscript{130} Included in the history to Dr. Badham was information regarding an incident of “binge drinking” over the previous weekend in Kings Cross. He informed the Doctor that his alcohol consumption was 100 to 300 grams a day which translates to 10 to 30 drinks per day.

\textsuperscript{125} T/s p.91- 1.20-21
\textsuperscript{126} Exhibit 37 para.4
\textsuperscript{127} T/s p.93- 1.21
\textsuperscript{128} Exhibit 37 p.2- 1.5-8 and T/s p.93 1.36-42
\textsuperscript{129} T/s p.588- 1.17-43 and p.589-590- 1.1-32
\textsuperscript{130} T/s p.587-1.36-41
The alcohol was consumed by CAPT Paljakka in the following quantities:

- 20 to 30 grams of rum before work
- 40 to 50 grams for lunch
- Double that amount for dinner

He informed Dr. Badham that his work performance had deteriorated which had been noticed by his senior officers. He denied a past history of deliberate suicidal harm or ideation.\textsuperscript{131} Alcohol dependence was also affecting his marital relationship.\textsuperscript{132} Dr. Badham contacted Ms Louise Hawkins, Alcohol, Tobacco and Drug Clinical Coordinator at 1 Health Support Battalion (1HSB) Holsworthy Barracks NSW; an appointment was made and he was sent to Alcohol Rehabilitation Education Centre Richmond RAAF NSW.\textsuperscript{133}

The primary focus of the rehabilitation of CAPT Paljakka was for alcohol dependence; drug use was not known to medical authorities at that time. He was also prescribed medication for his depression which also had the effect of treating his PTSD.

From August 2006 until his death in February 2007 attempts were made to rehabilitate him however he did not cooperate with the procedure. There was no evidence given by witnesses nor was there any material contained in any document that disclosed any traumatic event experienced by him during military service which would cause alcohol or drug use.

The evidence before the Commission of Inquiry enables a conclusion to be drawn that CAPT Paljakka developed traumatic memories which were an elaboration of what he had heard or was told whilst on deployment in Afghanistan. The foregoing phenomenon is recognised and was instrumental in causing PTSD. The Commission is also able to conclude that whilst on deployment in Afghanistan he would have suffered the effect of alcohol withdrawal.

The Commission of Inquiry is able to conclude that it was the compound effect of all the difficulties which were being experienced by him in addition to his personal problems which led him to take his own life.

Finding
CAPT Paljakka's army service in Afghanistan and the administrative action taken to show cause as to why he should not be discharged from the Army had a profound effect on him.

\textsuperscript{131} T/s p.590-1.4-12
\textsuperscript{132} T/s p.589-1.46-47
\textsuperscript{133} T/s p.587-1.41-42
\textsuperscript{134} T/s p.554-1.16-39
5(b) INQUIRY TASK

(i) “Whether CAPT Paljakka killed a person or witnessed the sexual assault of a child during a deployment to Afghanistan or reported such events to a person or persons within “Defence” and if so reported how any such incidents or reports were dealt with by the ADF”

(ii) Service in Afghanistan

CAPT Paljakka was deployed to Afghanistan on 27 April 2006. His role was that of an Ammunition Technical Officer, Team Leader of a Logistic Support Team (LST #2). He traveled to Afghanistan arriving at Tarin Kowt Base on 2 May 2006. He had traveled from by RAAF C130 Hercules aircraft. The base at Tarin Kowt is a secure base, with each having secure areas within the main base.132

The purpose of the deployment of CAPT Paljakka’s Unit LST#2 was to support Special Forces Task Groups (SFTG) tasked to undertake review of Ammunition and Ammunition Storage Areas (revitalizing the logistic platform across ammunition, technical regulatory framework and safety portfolios.136 The LST #2 Unit did NOT have a combat role137 and the soldiers were certainly not involved in operations “outside the wire”, outside the compounds of major bases.138 The task was one of conducting a stock take ensuring compliance with regulations as to storage.139 On arrival in Afghanistan CAPT Paljakka was in daily contact with his 2IC, Soldier 9 for the first five to seven days working in the same building.140

Following his return to Australia CAPT Paljakka wrote a report dated 20 July 2006.141 The report refers to two inspection sites being audited – designated 637.1 – 637.3 Tarin Kowt and Kandahar. Soldier 11’s evidence was that he selected CAPT Paljakka for the deployment with the tasks as outlined and to provide an analytical report on his return. Due to a head injury he sustained Soldier 11 was uncertain as to CAPT Paljakka visiting the base at Kandahar however Soldier 11 commented it was a very safe area.152 During the deployment Soldier 11 and CAPT Paljakka were in contact on a daily basis by email and on a number of occasions during the deployment by telephone.143 Soldier 11 emphatically stated that he had no communication from CAPT Paljakka or anyone else regarding the

135 Exhibit 115 para.6 and Exhibit 35 (ADO Service Record)
136 T/s p.813-1.41-45 Exhibit 130 para.7
137 T/s p.814-1.19
138 T/s p.814-1.21-31
139 Exhibit 130 para.7
140 Exhibit 115
141 Exhibit 139
142 T/s p.815-1.5-15
143 T/s p.815-1.23-27
shooting of someone by CAPT Paljakka. He continued by stating that he would find it difficult to find where the opportunity could have occurred given his location.\textsuperscript{144}

There was evidence from other members of the LST\#2 WO1 P.J. Bradford\textsuperscript{145}, PTE D.S. McGregor\textsuperscript{146}, and ex PTE P.A. McDonald.\textsuperscript{147} These witnesses were working in Tarin Kowt however they believed that CAPT Paljakka left Tarin Kowt for another base for a short time. PTE McGregor's evidence was that he drove CAPT Paljakka to a helicopter on the base to travel to Kabul or Kandahar\textsuperscript{148}. His recollection was supported by WO Bradford who stated that CAPT Paljakka left Tarin Kowt for Kandahar in a helicopter which was not Australian and his absence was for about two days.\textsuperscript{149}

During the investigation by the COI Investigator SGT S. O'Dowd it was determined that an ex officer Shane Della Deda\textsuperscript{150} also knew that CAPT Paljakka had traveled to Kandahar.

On 27 May 2006 when CAPT Paljakka and the other members of LST\#2 Unit (except Sec. DIER\textsuperscript{9}) were returning through after the 26 day deployment in Afghanistan he participated in a Return to Australia Psychological Screen (RTAPs) with CAPT Matthew Suen Army Psychologist. The record of the screening test indicated a number of significant matters given that this was the first time that CAPT Paljakka had the opportunity to unburden himself of experiences he later relayed to others. He told CAPT Suen that:\textsuperscript{151}

- The experience in Afghanistan was a positive one
- That he came under small arms fire whilst in a Chinook - the experience did not cause him any psychological distress
- Denied having suffered any Potentially Traumatic Events (PTE) and was coping well
- Concern expressed with regard to reuniting with his wife who had engaged in an act of infidelity a few weeks after their marriage
- The major negative experience during the deployment was the separation from his family
- CAPT Paljakka had rarely felt in danger of being killed or injured during the deployment
- Indicated that he had handled and seen dead bodies.

\textsuperscript{144} T/s p.815-139-44
\textsuperscript{145} Exhibit 128
\textsuperscript{146} Exhibit 127
\textsuperscript{147} T/s p.799-802
\textsuperscript{148} T/s p.781-134-45
\textsuperscript{149} T/s p.790-1.29
\textsuperscript{150} Exhibit 138
\textsuperscript{151} Psychological Screening Record Peyman Part 2,p.1
The comments were responses of CAPT Paljakka recorded by CAPT Matthew Suen Army Psychologist.

The events mentioned supra did not affect him, the only "stressor" noted was the domestic problem that he faced.\textsuperscript{152}

The screening document was not shown to the interviewee as a matter of practice but an overview is given to them by the psychologist.\textsuperscript{153}

The Psychologist CAPT Suen indicated that he had in the past experienced some reluctance by ADF members to speak openly about their experiences,\textsuperscript{154} as did Professor McFarlane in his report\textsuperscript{155}

In addition to the foregoing evidence there was also evidence from both PTE McGregor and PTE McDonald that there was an alert at Tarin Kowt which led to the use of the bunkers by soldiers, CAPT Paljakka was in command of the situation which transpired to be a false alarm and not an attack on the base. The alert was caused by mortar fire by local forces engaging in a training session.\textsuperscript{156}

The only evidence corroborating the viewing of bodies at Tarin Kowt was the evidence of WO1 Bradford who was engaged in the movement of "body bags" from helicopters to a mortuary within the Australian Compound. In addition PTE McGregor stated that CAPT Paljakka told him that when flying the Chinook from Kandahar to Tarin Kowt there was a body wrapped in a sheet.\textsuperscript{157}

(ii) **Claims made by CAPT Paljakka of events experienced whilst on deployment in Afghanistan.**

A summary of the evidence as to events CAPT Paljakka stated to others that he experienced. The events are significant in the determination of the question of PTSD as a result of deployment to Afghanistan.

The evidence before the Commission of Inquiry is clear that the version of events which were related by CAPT Paljakka to others were released by him over a lengthy period of time. It is significant as stated earlier in this report that when he left Afghanistan, issues which were later revealed, were not revealed immediately.

\textsuperscript{152} Exhibit 24 p.5
\textsuperscript{153} T/s p.430-1.24-28
\textsuperscript{154} T/s p.432-1.10-13
\textsuperscript{155} Exhibit 123
\textsuperscript{156} T/s p.782-1.19-26 and p.801 1.28-34
\textsuperscript{157} T/s p.782-1.9-11
The evidence of Mr. Arvi Paljakka was that his son had told him that he saw a person dying and that he had shot him.\[^{158}\] CAFT Paljakka also related that he witnessed a man raping a child.\[^{159}\] When giving this evidence Mr. Paljakka was uncertain when he was told of these experiences and he was uncertain of the origin of the telephone call from his son.\[^{160}\]

Mrs Paljakka in her statement of 15.1.2008 stated that her son told both her husband and her, a sequence of events that he experienced in Afghanistan:\[^{161}\]

- Forces took CAFT Paljakka by helicopter to destroy an ammunition store of the Taliban
- The told CAFT Paljakka to enter the building first and he would be protected by troops
- CAFT Paljakka was shot by someone exiting the store and was struck on his body armour
- The man was carrying explosives strapped to his body and when shot, exploded, the blast caused CAFT Paljakka to become unconscious
- Saw a young boy being raped
- A man slowly dying in agony from a gunshot wound.

It is significant that the original statement\[^{162}\] made by Mr. Arvi Paljakka on 18 September 2007 in Queensland was made in the presence of and in consultation with his wife Maila Paljakka. The incidents outlined above vary markedly from those originally outlined by Mr. Paljakka. At the completion of the original statement taken by Service Police Investigator SGT Sean O’Dowd it was read in part by Mr. Paljakka and in full by Mrs. Paljakka. This statement was taken in the presence of MAJ L.H.J. Bancroft of the Defence Community Organisation Brisbane (DCO). Mrs Paljakka stated that she was happy with the contents.\[^{163}\]

Mr. and Mrs. Paljakka’s evidence was that they had seen military “body armour” in their son’s home following his return from Afghanistan.\[^{164}\] Ms. Kylie Rogers who accompanied her husband home from the airport on his return from Afghanistan was adamant that he did not have body armour and she never saw such equipment in their apartment.\[^{165}\]

Kylie Rogers also recounted that on his return CAFT Paljakka was having nightmares and he described to her some of his experiences in Afghanistan:

\[^{158}\] T/s p.474-1.40-45 and p.475-1.1-7
\[^{159}\] T/s p.457-1.37-46
\[^{160}\] T/s p.474 and Exhibit 132 1.1-10
\[^{161}\] Exhibit 135
\[^{162}\] Exhibit 79
\[^{163}\] Exhibit 141 para.59
\[^{164}\] Exhibits 135, 132 Supplementary Statement 24.1.2008
\[^{165}\] Exhibit 137
• Whilst on piquet duty his troops were required to shoot a person —
  seeing him slowly die
• Saw a man raping a boy while travelling through a village in a
  troop carrier.\footnote{165}
• Involved in a number of live actions in Afghanistan.\footnote{167}
• Shot a number of people and he was also shot in his body
  armour.\footnote{168}
• Arriving in Tarin Kowt in a helicopter he was under fire when
  landing.\footnote{169}

\textit{These versions of events became more elaborate and varied when CAPT}
\textit{Paljakka related them to others.}

There is evidence that these events could not and did not occur due to
the restrictions placed on CAPT Paljakka. He was not in a combat role and any piquet
duty he would have performed was on the inner boundary of the Australian
Compound which was some distance from the perimeter of the base.\footnote{170}

In addition to the renditions outlined to his family above, CAPT Paljakka was
visited in BNI in August 2006 by CAPT D.C. Neve and he told him:\footnote{171}

• Came under fire when disembarking on arrival in Afghanistan
  from C130 aircraft
• On first night at Tarin Kowt was on "front gate" duty and killed an
  Afghan man who had a suitcase full of explosives and he had to
  dispose of them
• Went on several missions and was under fire and on one occasion
  was shot in the chest striking his body armour
• Saw an Australian soldier blow off the leg of an Afghan man
• Saw an Afghan rape a boy on the side of the road.

During his viva voce evidence CAPT Neve expressed the view that not only were
the accounts unlikely but they were untrue.\footnote{172}

When an impatient at BNH on 15\textsuperscript{th} August 2006 Dr. Lee Hardwick, Psychiatrist,
had a consultation with CAPT Paljakka. He outlined to her that he was
experiencing nightmares, his sleep was disturbed, he felt sad, and had poor
concentration. CAPT Paljakka would not relate events experienced in Afghanistan
to the Doctor due to security reasons, however that was not a valid reason and he

\footnotetext{165}{Exhibit 63 para. 21, and 22}
\footnotetext{167}{T/s p.359-1.17-23}
\footnotetext{168}{T/s p.359-1.34-35}
\footnotetext{169}{T/s p.359-1.37-40}
\footnotetext{170}{T/s p.678-1.8-18 p.404-1.15-25}
\footnotetext{171}{Exhibit 113 para.11}
\footnotetext{172}{T/s p.667-1.1-5 Exhibit 114 p.2/3 para.1-5 Exhibit 113 para.11}
was told later by Soldier 1 to disclose events which troubled him. Although CAPT Paljakka had raised the issue of suffering PTSD with CAPT Neve he raised the possibility with Mr. Rayner, Psychologist. Dr. Hardwick had formed a preliminary view on 15 August that CAPT Paljakka was suffering from alcohol dependence and possibly PTSD with secondary depressive symptoms.\textsuperscript{173}

Whilst not outlining specific incidents to Dr. Hardwick he did tell her that he had seen mutilated bodies and dead children and at one stage feared for his life.\textsuperscript{174} When speaking with his Psychologist Mr. Rayner he said that he shot a man in the head and watched him die because he had an Improvised Explosive Device (IED) and the experience of witnessing the rape of a child. CAPT Paljakka also indicated he could not tell anyone due to security reasons.\textsuperscript{175}

Mr. Rayner did not rule out the possibility of PTSD; he accepted he had some symptoms however Mr. Rayner’s view was that when he was told of the events by CAPT Paljakka he did not display any intense fear, helplessness or horror consistent with a traumatising event,\textsuperscript{176} however he did relate the death of the man when he was on sentry duty and the rape of the child.\textsuperscript{177} It was conceded that the sexual abuse of a child may have taken place in Kandahar.

(iiia) Evidence of witnesses, contradicting the version of events in Afghanistan related by CAPT Paljakka

It has previously been stated that the matters outlined by CAPT Paljakka to WO Bradford, PTE McGregor, Ex PTE McDonald and CAPT Neve are either highly unlikely or not a truthful account of what had occurred to him in Afghanistan.

There was evidence called from members of SOCMD HQ regarding the deployment of CAPT Paljakka in Afghanistan. Soldier 11’s evidence in relation to the events recounted by CAPT Paljakka was that they were extremely unlikely and probably impossible.\textsuperscript{178} Soldier 11 also stated that he was in daily contact with CAPT Paljakka both by telephone and email; no mention was made of the experiences outlined.\textsuperscript{179} In addition to the daily contact with Soldier 11 the only concerns expressed by CAPT Paljakka were in relation to daily reports and the pressures.\textsuperscript{180}

The evidence of Soldier 9 has significance in the context of the deployment and the series of events depicted by CAPT Paljakka. Soldier 9’s evidence regarding piquet duty was all members (of the FIEG) were required to undertake piquet duty
including officers around the Compound and the front gate of the Australian Compound, within the greater base.\textsuperscript{181} There was never any incident regarding the front gate of the Australian Compound as related by CAPT Paljakka.\textsuperscript{182} Whereas it was possible for an Afghani to approach the Australian Compound "front gate" it was only after passing a number of security checks and being escorted.\textsuperscript{183}

(iii) **Recommendation**

There should be a uniform policy with regard to the access to evidence regarding potential security concerns. In the event of evidence being examined and security concerns are identified the reasons should be directly relayed to the COI president.

The examination of reports, retained at SOHQ CMD by Soldiers 7 and 10 related to "Situation Reports" SITREPS, incident and contact reports relating to CAPT Paljakka over the period of time that he was deployed in Afghanistan\textsuperscript{184} There were no reports found and in the opinion of Soldier 7 it was very highly unlikely that CAPT Paljakka was involved in the situation he had outlined..\textsuperscript{185} Soldier 7's view on reading and interpreting the SITREPS was that CAPT Paljakka did not leave Tarin Kowt base\textsuperscript{186} however the exhibit report by CAPT Paljakka confirms that he did travel to Kandahar.\textsuperscript{187}

In relation to all versions of events given by CAPT Paljakka, Soldier 1 did not believe either of the accounts that were related to him. In his view CAPT Paljakka was never in a position to witness either of the two matters.\textsuperscript{188} Based on Soldier 1's knowledge of the deployment agenda of CAPT Paljakka these claims were treated with a great deal of scepticism by him. The same thought processes were adopted by Soldier 2 who confirmed that CAPT Paljakka was engaged in a logistics capacity and would have been surprised if he had engaged in combat. If the latter was the case then there would be supporting reports at SOHQ. An extensive search of SOHQ files had not revealed any.\textsuperscript{189}

A colleague of CAPT Paljakka who worked in the same location at SOHQ proffered an opinion with regard to CAPT Paljakka's interaction with SAS troops in Afghanistan. He stated that he found it highly unlikely that CAPT Paljakka who was not trained to their standard would be taken out by Special Forces unless it was required by mission parameters.\textsuperscript{190} The parameters of the mission of CAPT Paljakka's deployment did not include working with combat troops. In order to

\textsuperscript{181} T/s p.678-18-18, T/s p.404-1.15-25
\textsuperscript{182} T/s Exhibit 115 para.11
\textsuperscript{183} T/s p.678-1.20-24; Exhibit 115 para.14,15, T/s 679-1.31-35; T/s p.676-1.41-44
\textsuperscript{184} T/s 404-1.1-9; 407-1.8-10
\textsuperscript{185} T/s 419-1.3; 420-1.1-22
\textsuperscript{186} Exhibit 18 para.18, T/s p.421.1.14-20
\textsuperscript{187} Exhibit 139
\textsuperscript{188} Exhibit 56 para.42
\textsuperscript{189} S7 T/s p.331-1.41, p.332-1.10
\textsuperscript{190} Exhibit 61 para.11

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authenticate the claims made by him as previously outlined a review was held with regard to situation and incident reports relating to SOTG in Afghanistan between 27 April and 27 May 2006. (The date coinciding with the deployment of CAPT Paljakka in Afghanistan). The evidence of Soldier 10 Staff Officer Joint Current Operations SOHQ reviewing relevant documents:

- No reports of any mortar attack on the Australian Compound within 500 m of the area
- No reports of any Explosive Ordnance Disposal (EOD) at Tarin Kowt or reports linking such an event with CAPT Paljakka
- No evidence of any human rights abuses (rape of a child)\textsuperscript{191}
- No exchange of gunfire between Coalition Forces – Taliban – other military forces or civilians
- No reports involving CAPT Paljakka specifically
- No contact report relating to the Tarin Kowt Base (there were contacts 20 km from the Base)
- No contact reports relating to helicopters in Tarin Kowt\textsuperscript{192}

Soldier 10 was also of the view that CAPT Paljakka was unlikely to have left the Australian Compound by vehicle or on foot or participate in patrols or EOD tasks. The foregoing task was one which was strictly the domain of specialists deployed from Australia and other coalition nations.\textsuperscript{193} The evidence of Soldier 10 was supported by the evidence of Soldier 12 who was a former Director of Operations in Afghanistan. He also exhaustively checked all of the SITREP for the Kandahar Base for the period coinciding with CAPT Paljakka’s deployment. Except for a rocket attack in the vicinity of the Kandahar Base there were no other incidents or contacts with the Taliban. The Australian Compound as described by Soldier 12 is the same configuration as that of the base at Tarin Kowt, well within the outer perimeter and is protected by a number of security checks. The ammunition store visited by CAPT Paljakka is located within the perimeter of the Base and is protected by a number of security checks. The munitions store within the Australian compound to that facility did not require leaving the Base. Soldier 12’s opinion of CAPT Paljakka being taken by troops to assist them in an operation (as related by CAPT Paljakka to CAPT Neve) was that could not be done without command approval from a very high level. The SOHQ records on his investigation did not disclose that any member of LST#2 had left Tarin Kowt. However the report, Exhibit 139, shows that CAPT Paljakka had inspected the Kandahar facility. It was conceded that the records held by SOHQ could be inaccurate. [There are no references available as to the transcript held by SOCMD HQ] The SOHQ reports were also examined by Soldiers 7 and 10.

\textsuperscript{191} T/s p.691-1.24-38
\textsuperscript{192} T/s p.690-1.15-40
\textsuperscript{193} Exhibit 116 para.4
(iv) Disclosure of events in Afghanistan by CAPT Paljakka

The only ADF member who was specifically spoken to by CAPT Paljakka regarding the experiences in Afghanistan was CAPT D. Neve; he was not in the Chain of Command nor did he report the information to CAPT Paljakka’s senior officers. His evidence was that he was concerned about the welfare of CAPT Paljakka, however he did approach CAPT Alison Cain Psychologist to obtain some advice.\textsuperscript{194}

Soldier 11 when made aware of the “possible” PTSD approached BNH staff informing them that CAPT Paljakka had not been engaged in “kinetic operations” in Afghanistan.\textsuperscript{195} Soldier 11 stated to the Inquiry that the reason for divulging the information to medical staff was to assist in making the correct diagnosis.\textsuperscript{196}

CAPT Paljakka did disclose to Mr. Steven Rayner Psychologist, a number of events he maintained had occurred in Afghanistan.\textsuperscript{197} These disclosures were not transmitted to CAPT Paljakka’s chain of command and he did not diagnose PTSD although he exhibited some of the symptoms.\textsuperscript{198} Mr. Rayner was not aware of any illicit drug taking by CAPT Paljakka.

On 25 September 2006 Dr. Hardwick made a full assessment of CAPT Paljakka’s using information supplied by CAPT Paljakka which included the following series of stressors:

- His wife had an affair with someone in the RAAF with whom he had to work
- In Afghanistan saw mutilated bodies, dead children
- Under fire whilst in helicopter
- Base hit by gun fire\textsuperscript{199}

Mr. Rayner showed reticence in diagnosis of PTSD as in his opinion the symptoms were insufficient to diagnose the disorder. The incidents divulged by CAPT Paljakka are in my view not sustained on the evidence. The conclusion is not based solely on the divergence of the facts given by CAPT Paljakka but also other evidence as to the location and the designated duties that he was carrying out in Afghanistan as an ATO.

\textsuperscript{194} T/s p.670-1.44, p.671
\textsuperscript{195} T/s p.819-1.42-43
\textsuperscript{196} T/s p.824-1.12-37; p.828-1.14-40; Exhibit 130 para.146
\textsuperscript{197} T/s p.216-1.13-18
\textsuperscript{198} T/s p.217-1.1-2
\textsuperscript{199} T/s p.142-1.30-49, p.143-1.1-5
5(c) THE SUFFICIENCY OF ANY DEFENCE ACTIONS AND DECISION MATERIALLY RELEVANT TO CAPTAIN PALJAKKA’S DEATH BOTH PRIOR AND SUBSEQUENT THERETO.

(i) Medical Treatment of Captain Paljakka

On his return from Afghanistan on 1 June 2006 CAPT Paljakka engaged in the psychological screening RAPs conducted by CAPT Matthew Suen in CAPT Paljakka first came into contact with ADF Medical Services on 31 July 2006 when he attended at Fleet Base East Medical Centre (FBE-MC) and was then admitted to Balmoral Naval Hospital (BNH). Following this admission he was subsequently admitted on a further three occasions (14.8.2006, 4.12.2006, 30.1.2007). CAPT Paljakka was a voluntary patient on each of those occasions. He was also an impatient undergoing treatment and participating in an Alcohol Rehabilitation Program (AREP) between 28 August and 11 September 2006. CAPT Paljakka discharged himself after reporting his wife was suffering from cervical cancer. He had never suffered from that disease. He was also taken on two occasions to the Royal Prince Alfred Hospital (RPA) on 13th August and 1 December 2006. CAPT Paljakka’s admission to RPA on 13th August followed after he was found unconscious as a result of intoxication in a park by the police. This was only three days after his release from BNH. He was transferred from RPA on this occasion to BNH where he was admitted and subsequently sent to 3CSH RAAF Base Richmond NSW to attend the AREP Program.

On his attendance at RPA his wife Ms. Rogers told nursing staff that he had attempted to commit suicide about three days prior by ingesting Stilnox and alcohol. This information was transmitted to BNH by RPA by facsimile. On his admission to BNH Dr. Amanda Badham who examined CAPT Paljakka did not recall viewing the information from RPA however the Doctor conceded that even having read the RPA documents there was contradictory information from CAPT Paljakka he denied suicidal ideation. He was admitted to the Hospital with a regime of no external contact except his wife. He was appointed a psychologist and a psychiatrist combined with detoxification. He was regularly reviewed by the medical staff. On the 23rd August following a further examination by Drs. Badham and Hardwick, CAPT Paljakka was prescribed Efexor for his depression. It is significant that at that time the medical records (Exhibit 30) show that his alcohol withdrawal had returned to zero and he was encouraged to visit Alcoholics Anonymous (AA). He was discharged from BNH to the AREP program at RAAF 3CSH RAAF Base.

200 T/s p.617-1,14-35
201 T/s p.596-1.37-43, p.597-1.1-13
202 T/s p.597-1.98-99
On his own discharge from the AREP program he had displayed a reluctance to cooperate with the program counsellors. The general comments of the course by CAPT Paljakka was that he had not gained any benefit from the experience; he had difficulty complying with the program. On admission to the AREP program an additional assessment was carried out by Dr. Hilary Smith (whose statement was admitted by consent) Medical Officer – admission medical assessments. CAPT Paljakka was described as a routine admission for detoxification prior to AREP. Prior history of depression, increase of Efexor from 75 mg to 150 mg per day. There was no indication of any symptoms of “suicide ideation” nor was such mentioned by CAPT Paljakka.

CAPT Paljakka on his discharge from the AREP program did not present at BNH as is the usual arrangement however there was contact by him however he did make contact with Dr. Kim Graeme Dunstan at FBE-MC. CAPT Paljakka had previously had a consultation with Dr. Dunstan prior to his admission to BNH on 31.7.06 for symptoms of alcohol abuse with “black outs”.

The consultation of 13 September 2006 with Dr. Dunstan revealed that CAPT Paljakka was concerned with regard to the side effects of the anti depressant medication. Taking the past history into account the Doctor was of the view that CAPT Paljakka should not be working. Following this consultation Dr. Dunstan conducted an MEC review and he was reclassified from MEC1 to MEC3. The reclassification was explained during the Inquiry by LTCOL Siedl.

The reason for the reclassification of CAPT Paljakka was outlined by Dr. Dunstan in his evidence. It was explained that the doctor was of the view that CAPT Paljakka was unfit for deployment, weapons handling and unfit for work. CAPT Paljakka was under treatment for depression and was receiving medication (Efexor).

Following the initial consultation on 13th September CAPT Paljakka was reviewed by Dr. Kim G. Dunstan on 21st September. He denied any suicidal ideation and it was ascertained that CAPT Paljakka was feeling better and had remained on Efexor.

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203 Exhibit 31
204 Exhibit 37 para.7
205 Exhibit 103: 206 T/s p.99 1.27-45, p.100- 1.14-23
207 Exhibit 37 para.11
On 25 September 2006 a review was conducted by Dr. Lee Hardwick.\footnote{Exhibit 30}

- A lengthy use of alcohol was outlined by CAPT Paljakka.
- Engaged in severe alcohol consumption whilst in Darwin and continued during 2002.
- Stopped drinking on completion of ATO course.
- Suffered stressors in 2006. Wife’s extra marital affair.
- Saw dead bodies and dead children in Afghanistan.
- In fear of life in helicopter.
- Reactive depression following wife’s infidelity
- Denial drug taking
- Family history of alcohol dependence.
- Diagnosed with severe alcohol dependence and PTSD.

On 26 September 2006 consultation with Mr. Steven Rayner Psychologist who was of the view that there was a possibility of PTSD. On 28 September 2006 consultation with Dr. Kim Dunstan when he said he had stopped drinking.\footnote{Exhibit 37 para.12} At a consultation on 6 October 2006 CAPT Paljakka stated that he had no suicidal ideation and was requested to return on 16 October 2006. CAPT Paljakka did not make a further appointment.

Although CAPT Paljakka failed to attend an appointment with Dr. Kim Dunstan (16.10.06)\footnote{Exhibit 42 para.8} he did attend an appointment with Psychologist Mr. Stephen Rayner informing him also that his wife was being treated for cancer. However CAPT Paljakka perpetuated the version of events that he had previously stated. He also stated that he had stopped drinking and was attending AA and was advised by Mr. Rayner that he did accept that he was suffering PTSD.

On 14 November a further appointment with Dr. Hardwick he stated he had been sober for two months but was irritable, angry and hyper vigilant on occasions. He was prescribed an increase of Efexor to 225 mgs per day and Seroquel for sleep.

Following his 14\textsuperscript{th} November appointment CAPT Paljakka had an appointment with Mr. Rayner on 26 November 2006\footnote{Exhibit 48 para.14} and he failed to keep an appointment with Dr. Anderson\footnote{Exhibit 38 para.7}. Dr. Anderson the senior medical officer at FBE-MC Garden Island on 28 November when informed of irregularities of alcohol corruption in blood samples attempted to have CAPT Paljakka attend at the hospital.
The evidence before the COI was that over the period between 31 July 2006 and his death he was seen by senior medical officers, treating general practitioners and psychiatrists together with a psychologist, had been afforded a position in the AREP program and a place was obtained at St. John of God Hospital for treatment of his alcohol abuse, depression and PTSD. On 1 December 2006 attended at RPA having consumed a bottle of whisky and other drugs. He denied suicidal ideations stating he just wanted to forget for awhile. He was administered intravenous fluids and was seen by a medical officer who informed him that if he continued drinking he could suffer permanent disability or die. He left the Hospital at his own risk having signed a discharge. The nursing notes in a retrospective entry indicate that his wife informed the Hospital that he had attempted suicide (tablets) days before.  

Following the incident on the 1st December 2006, CAPT Paljakka was readmitted to BNH on the 4th December having been taken there by his wife, and reviewed by Dr. Hardwick (supra). CAPT Paljakka refused to attend St. John of God Hospital at that time citing that he wished to go to Queensland from the 16th December - 8 January 2007 to stay with his parents. The evidence revealed that from late November 2006 Ms. Rogers was living separately, the reason being due to CAPT Paljakka’s drinking and use of drugs. During his stay at BNH he was prescribed Zyprexa 5 mg per day in addition to his other medication.

On his admission on the 4th December 2006 it is recorded in the “Nursing Notes” – Admission Assessment that his medication Seroquel made him feel suicidal. This comment is confined to the initial assessment; there is no record of that information being specifically conveyed to either another nurse or a medical practitioner. CAPT Paljakka did not convey that information to any other member of the nursing or medical staff of BNH.

Comment

Evidence has shown that information recorded by nursing staff is not read by doctors unless it is drawn to their attention. In my view this is an extremely risky practice particularly when it is linked to suicidal ideation, linked to overseas deployment.

(ii) Recommendation

That in all assessments carried out by nursing staff of military hospitals all significant suicidal ideation notations should be highlighted and brought to the attention of medical practitioners.

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213 Exhibit 33
214 Exhibit 30
CAPT Paljakka ceased to take his medication Efexor on 25th November as he believed that to continue taking it with alcohol was dangerous. When being examined by Dr. Hardwick on 5th December 2006 he did not convey this information to her.

It is significant with respect to the large number of times CAPT Paljakka saw doctors and the psychologist Mr. Rayner that there was a divergence of opinion as to whether or not he was suffering from PTSD. However the view of all at BNH was that CAPT Paljakka’s alcohol addiction should be dealt with initially. This view was criticised by Professor McFarlane who recommended an increase in the training of military clinicians in the treatment of PTSD. His view was that both alcohol addiction and PTSD could be treated simultaneously. Professor McFarlane’s opinion was that the treatment of PTSD had commenced because the medication Efexor had been prescribed for his depression.

On the return of CAPT Paljakka to NSW after visiting his family in Queensland he was again admitted to BNH on 30 January 2007. He had been escorted to the hospital by Staff Officer Soldier 1 who had become concerned as a result of information received.

CAPT Paljakka’s medical treatment continued at BNH where he was regularly seen by medical staff until his transfer to St. John of God Hospital Richmond NSW on 14th February 2007 where he was an inpatient until 26 February 2007.

(iii) The period of time 30 January 2007 to 26 February 2007 with respect to medical treatment of CAPT Paljakka

The 28 days prior to the death of CAPT Paljakka are of absolute significance with regard to medical treatment. The criticism levelled by LEUT Hogan Counsel appearing for the Deceased, is primarily the failure of the medical and military authorities to recognise and adequately deal with the high risk of suicide. Following on from his submission LEUT Hogan stressed that due to this failure, CAPT Paljakka was not managed properly, there was no crisis plan and an unacceptable level of supervision. The criticism also shows a complete failure to communicate information adequately between the medical institutions, BNH – St. John of God and senior military officers from SOHQ.

During the period mentioned CAPT Paljakka was admitted to BNH following his failure to report for work at SOHQ Soldier 1 attended the Senior Sailors’
mess at HMAS Kuttabul where CAPT Paljakka was residing at the time. On entry to the quarters CAPT Paljakka was found asleep in bed and intoxicated; it was also observed that there were marks on his left arm consistent with injections. There were also marks — scratches on his wrists and a Bowie knife in the room however CAPT Paljakka did not know if they have been self inflicted. The marks were described as being extremely superficial\textsuperscript{220} however he did inform Soldier 1 that he had thought about suicide. It was during this trip to BNH that CAPT Paljakka told Soldier 1 that he was not able to relate matters in Afghanistan to medical staff.\textsuperscript{221}

The above incident followed events in Canberra the previous day when CAPT Paljakka had been in Canberra visiting Mr. Aaron Filewood and when drinking and drug taking had asked to be shot. There was no gun available. The incident was reported to RMC Duntroon by Mr. Filewood.

He was assessed by medical practitioners, a psychiatrist and a psychologist over the next fourteen days following his admission to BNH. Dr. Hardwick Psychiatrist reviewed CAPT Paljakka as did Mr. Rayner Psychologist. At the time he was reviewed by Dr. Hardwick she was of the view he only had a partial appreciation of the seriousness of his alcohol dependence. It was at that time that CAPT Paljakka agreed to participate in the program at St. John of God. Dr. Hardwick was also told by CAPT Paljakka that his drinking problem resulted from his marriage breakdown and property settlement issues. On the day of his admission (30.1.2007) a “minute” was sent by Soldier 2, the commanding officer, to Dr. Kim Anderson FBE-MC expressing his concerns regarding CAPT Paljakka.\textsuperscript{222}

The admission to the St. John of God program had been the focus of treatment of CAPT Paljakka on his previous admission to BNH on 4 December 2007. CAPT Paljakka had been released from the Hospital at his own request to go home in Queensland over the Christmas period.

On his return to BNH whilst waiting to be transferred to St. John of God following detoxification there were incidents which interrupted the treatment process. CAPT Paljakka left BNH on 12 February 2007 and returned smelling of alcohol.\textsuperscript{223} It was believed that he had not ingested any illicit drugs.

\textsuperscript{220}Exhibit 56 para.25
\textsuperscript{221}Exhibit 56 para.27
\textsuperscript{222}Exhibit 41
\textsuperscript{223}Exhibit 39, Exhibit 42 para.27
(iv) The nature of CAPT Paljakka’s posting SOHQ and the failure of the communication channel between the military command and adjacent medical facilities.

The medical facilities which were available to CAPT Paljakka from SOHQ at Kuttubul were FBE-MC and BNH. CAPT Paljakka had initially presented to FBE-MC, his MEC Classification downgraded and then transferred to BNH by Dr. Anderson. CAPT Paljakka’s command was then placed in a position where all communication was through Dr. Anderson.224

The evidence adduced indicated that CAPT Paljakka first refused to participate in the St. John of God program, having not completed the AREP program. He subsequently agreed whilst a patient in BNH prior to his transfer. The situation with respect to BNH was that there were crisis care facilities but not inpatient programs.225 It is clear on the evidence that on admission that following treatment, CAPT Paljakka improved markedly. There was a communication by Dr. Blackwood to Dr. Anderson (BNH) regarding the refusal by CAPT Paljakka to undergo programs. In the communication Dr. Blackwood’s view was that CAPT Paljakka’s problem should be dealt with administratively i.e., for “CAPT Paljakka to show cause”. The view of Dr. Blackwood was then passed on to SOHQ by Dr. Anderson.226

The approach made to St. John of God Hospital to accept CAPT Paljakka as an inpatient in the relevant program was carried out by Dr. Blackwood. Whereas St. John of God Hospital was provided with written material from BNH which included information regarding thoughts of self harm there was no specific plan forwarded by BNH. Dr. Blackwood was of the view that Dr. Badham was responsible for the transfer of the patient to St. John of God Hospital. Dr. Blackwood was the Medical Services Manager BNH. There were numerous questions put to Dr. Blackwood at the Commission of Inquiry with regard to CAPT Paljakka’s mental state which resulted in a response from Dr. Blackwood which confirmed the evidence of one of the initial police officers. The principle that he outlined was that: “the judgement, the mental assessment is made on the patient’s mental health status at that point227 and not three months six months ago as to what happened”. Dr. Blackwood on a number of occasions asserted that the responsibility of transferring CAPT Paljakka was that of Dr. Badham.

224 Exhibit 38 para.7-10
225 T/s p.241- 14-17
226 Exhibit 39 para.10; T/s p.120- 1.6-10
227 T/s p.709 37-43
During the examination of Dr. Blackwood by MAJ Hyde, Dr. Blackwood stated:

"The problem we have... some units will refuse the member for treatment if that patient has had a recent episode of drinking". 228

The above comment by Dr. Blackwood was also made relevant by Dr. Blackwood with respect to suicidal ideation. He conceded that such information however should have been passed to St. John of God Hospital. 229 Concern with regard to the recording and transfer of the relevant information with CAPT Paljakka on transfer is further highlighted by the failure to transmit the information provided by Soldier 1 regarding suicidal ideation.

The comments made by Dr. Blackwood were totally unacceptable however I am satisfied that there was not a deliberate intention to prevent such information being provided to St. John of God Hospital. The comment was in my view a personal opinion of the Doctor and is neither a policy of the BNH or a reflection of what occurred on this occasion.

The above comments were clearly condemned by Professor McFarlane and GPCAPT Lambeth however as stated there is no evidence to support a finding that the comment related to a deliberate decision to withhold the information from the staff of St. John of God Hospital on the transfer. There is no evidence to show that any other medical practitioner shared the view expressed by Dr. Blackwood.

Comment

The evidence in my view clearly shows that there are deficiencies in the patient transfer procedures inter hospital whether they are military or non-military.

(v) Recommendation

On transfer of patients from military hospital to non-military hospitals there should be the designation of a particular medical officer who is responsible for the disclosure of all relevant information particularly with regard to alcohol, drug abuse and particularly suicidal ideations. The recommendation should form part of a protocol issued by the particular hospital. The documentation should include all nursing notes and assessments.

During the period of time CAPT Paljakka was an impatient at BNH prior to his transfer to St. John of God Hospital, there were numerous contacts

228 T/S p.711-1.15-19
229 T/S p.711-1.46-50
between CAPT Paljakka and Dr. Badham, his treating doctor. On the 6th February 2007 CAPT Paljakka had dilated pupils and blood tests found that there had been no drug use. On 11th February 2007 CAPT Paljakka returned to his ward smelling of alcohol and exhibiting alcohol withdrawal symptoms. On the 13th February CAPT Paljakka was seen by Dr. Badham leaving the Hospital grounds and was taken back to his ward.

Dr. Badham was the medical officer who completed the necessary documentation for CAPT Paljakka's transfer to St. John of God Hospital. Although Dr. Badham did not know which doctor at St. John of God she spoke to, the doctor she believed was responsible for the admission of CAPT Paljakka. Dr. Badham outlined the documentation that accompanied CAPT Paljakka and clearly stated that if there was information by the treating psychiatrist or psychologist with respect to attempted suicide or suicidal ideation then that would be passed on. Dr. Badham's evidence was that the documents which accompanied the transfer of patients were medical orientated medication chart and all of the medical documents up to the day of transfer.

The transfer form did not contain any specific section dealing with any level of suicide risk.

The evidence of Mr. Stephen Rayner Psychologist was that during the period August 2006 and February 2007 CAPT Paljakka did not mention any thoughts of suicidal ideation to him, nor was he considered to be a risk of such behaviour. There was no mention of illicit drug taking and no reason to suspect such behaviour.

At the time CAPT Paljakka was an inpatient at BNH prior to transfer to St. John of God he was visited by Soldier 1 and informed that administrative action would be taken against him with regard to his alcohol dependence. There was evidence before the Commission of Inquiry that before the transfer to St. John of God Hospital there were however a number of references regarding suicide risk:

- 1.12.2006 Ms. Rogers informed RFA attempt at suicide by prescribed medication and alcohol.
- Report to RMC by Aaron Filewood of a request to be shot.
- Observation of Soldier 1 of wrists and an admission of suicide ideation.

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230 T/s p.611-1.5-46
231 T/s p.638-1.1-5, p.639 1.30-44
232 T/s p.646-1.26-31
233 T/s p.651-130-37, 1.39-46
234 T/s p.652-1.2-7
235 T/s p.651-14-19
236 Exhibit 48 p.19

49
Telephone call to Dr. Blackwood from CAPT Paljakka’s mother regarding suicide ideation conveyed by CAPT Paljakka to his brother.

Although the above information is found to have been mentioned on a number of occasions to medical and military staff there was no evidence that any one clinician had a complete record of these events prior to CAPT Paljakka’s transfer to St. John of God Hospital.

The failure with respect to the coordination of the information supra is one of systemic failure rather than the failure of an individual. The information was either not specifically drawn to a clinician’s attention from nursing notes and assessments, they were not read, and such behaviour was not reported, however more significantly CAPT Paljakka denied vehemently suicidal ideation. The view that the Commission is urged to take with respect to the clinicians Drs. Badham, Blackwood and Hardwick needs to be examined in the light of the evidence of Mr. Stephen Rayner as to the interaction between them and their discussions regarding the welfare of CAPT Paljakka.237

The overall management of CAPT Paljakka was referred to in Professor McFarlane’s report of 16.1.2008 acknowledging that the quality and standard of care afforded CAPT Paljakka, was of an acceptable standard. It was also acknowledged that the failure on the part of CAPT Paljakka to confide in the medical staff played a substantial role in the consequences.238

Professor McFarlane acknowledged that the totality of the collective knowledge which had been accumulated by BNH was not passed to St. John of God. If the information was available to St. John of God staff the assessment of the “level of risk” to CAPT Paljakka would have been raised resulting in more frequent observations being undertaken. He stated that it would be conjecture to try to establish now whether the clinical care would have been altered.239 The Professor’s report is critical of the lack of information being passed between BNH — AREP and BNH St. John of God without any detailed clinical history or observations as to suicidal thoughts. The absence of a longitudinal perspective of CAPT Paljakka’s symptoms resulted in a lack of ability to assess him in light of his previous history. Professor McFarlane pointed out that if the information had been deliberately withheld his view would be an individual’s failure other than a systemic failure.240

237 I/s p.236-114-75 also Exhibit 48 para.20
238 Exhibit 122 p.35 1.6-20, p.36 1.31-36
239 Exhibit 122 p.20
240 Exhibit 122 p.42 para.2
(vi) Recommendation

(a) In future cases of alcohol related admissions, a routine suicidal
risk profile is conducted on admission to a Defence medical
establishment.

(b) The training of clinicians directed to instilling a greater awareness
of links between alcohol dependence and Post Traumatic Stress
Disorder (PTSD).

(vii) Assessment of Suicide Risk

DI(G) PERS 16-24 Mental Health Provisions ADF 7 February 2007

This document recognizes command responsibility in the maintenance of
mental health. It also places the primary responsibility for mental health on
individual ADF Members.241

The assessment of suicide risk has a significant bearing on this Inquiry
given that St. John of God and other clinicians were not totally aware of all
the circumstances relating to CAPT Paljakka.

Dr. Anderson’s evidence stated that an important factor in the assessment is
talking to the patient.242 It is not just a matter of collecting “historical
information” it involves the balancing of the relevant information.243

The totality of the evidence regarding suicidal ideation is one of emphatic
denial by CAPT Paljakka with the exception of the information passed to a
nurse on admission to BNH on 4 December 2006244 with regard to the
effects of Seroquel and comments made to Dr. Hardwick on 2 February
2007 which were passed on to St. John of God Hospital “thoughts of self
harm in his darkest moments”.245

It has been recorded in this report that CAPT Paljakka constantly denied
suicidal ideation to at least four clinicians at BNH, Dr. Badhau, Dr.
Dunstan,246 Dr. Blackwood, Dr. Walpole,247 and Dr. Walker.248

During the critical period December to February 2007 there was a crucial
piece of evidence from Mr. Stephen Rayner. CAPT Paljakka told Mr.
Rayner he had hit rock bottom, however there were no thoughts of self harm or suicidal ideation even though he saw his career over in the Army.  

There has been a large amount of evidence relating to the question of suicidal ideation and behaviour not having been passed to St. John of God Hospital given that an important factor in determining the risk of suicide is the information given by the patient to clinicians particularly.

On his admission to St. John of God Hospital, CAPT Paljakka was interviewed (assessed) by Dr. Dang Nguyen who stated that CAPT Paljakka displayed low mood, no disorder of thought or perceptual disturbances and expressed no suicidal thoughts or plans and expressed no homicidal thoughts. He was not placed on a close observation regime and was given Zantac and blood and urine tests were carried out. The latter gave negative results. Dr. Nguyen again saw CAPT Paljakka with regard to his blood test results which showed a low white cell and neutrophil count and a repeat test was ordered for the next day. At the time she spoke with CAPT Paljakka Dr. Nguyen detected no abnormality in his behaviour and concluded that she had no concerns regarding his mental state. There was no alteration to the observations ordered.

Dr. Mark Walker reviewed CAPT Paljakka on 20 February 2007 and there were denials of self harm and Dr. Walker was satisfied as to the mental well being of CAPT Paljakka. In Dr. Walker’s opinion he was not an acute risk and granted him day leave on 22 February 2007.

The continued denial when questioned regarding suicidal risk created difficulty in monitoring and predicting his propensity to suicide.

In the view of Professor McFarlane, patients like CAPT Paljakka who are secretive in not disclosing their thoughts and do not appear to be under stress, can be underestimated. The failure to disclose his drug use had an important bearing on limiting the focus of his treatment.

(viii) Diagnosis of Post Traumatic Stress Disorder (PTSD)

It can be fairly stated that the RtapS report of CAPT Paljakka discloses very little information that could be clearly indicated as being consistent with PTSD. At the time of his RtapS procedure there were no reports of any events which had the potential of causing any distress or fear. However if is significant that Professor McFarlane proffered the opinion that the

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249 T/s p.216 l.29-42, Exhibit 48 para.18
250 Exhibit 44, T/s p.185-186
251 T/s p.164 l.19-26
252 T/s p.728-729
symptoms of PTSD can arise at about one month following exposure to a traumatic event.

CAPT Paljakka's first diagnosis was that of alcohol dependency with a possibility of suffering from PTSD. The difficulty faced by the military doctors at the time of his second admission to BNH was the level of alcohol dependence. It is accepted that severe alcohol dependence has the potential to mask or to mimic the symptoms of PTSD. The issue was further complicated due to the reluctance of CAPT Paljakka to discuss his problems with medical staff.  

Dr. Hardwick and Mr. Steven Rayner examined CAPT Paljakka with regard to PTSD. CAPT Paljakka asserted that he had witnessed events in Afghanistan which were partially disclosed to Mr. Rayner and in more general terms to Dr. Hardwick. Even though he disclosed some matters to Mr. Rayner there were others that he disclosed to other people which were not disclosed to Mr. Rayner.  

The significance of Mr. Rayner's evidence is that he has had considerable experience working with PTSD sufferers and saw CAPT Paljakka on twelve occasions, all of which were for at least one hour. Mr. Rayner's diagnosis was based on information supplied by CAPT Paljakka. There were no checks made by Mr. Rayner to substantiate any material provided by CAPT Paljakka. The result of this process was that Mr. Rayner's diagnosis was that CAPT Paljakka did not satisfy the diagnostic criteria. It was not the alcohol dependence per se that prevented the diagnosis but other factors however Mr. Rayner did not close his mind to the possibility that PTSD was present which resulted in the decision to send him to St. John of God to enable diagnosis and treatment of both of the disorders.  

On his admission to St. John of God Hospital CAPT Paljakka was seen by Dr. Mark Walker who examined him on three occasions diagnosing PTSD and Dr. Walker discussed with CAPT Paljakka the prospect of entering the St. John of God PTSD program. It is of some significance that CAPT Paljakka related the incident of a mortar attack on his base by the Taliban as being life threatening.

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253 T/s p.140-1.10-16
254 T/s p.221-1.20-27
255 T/s p.222-1.20-27
256 T/s p.213-1.31-49
257 T/s p.218-1.19-16
258 T/s p.214-1.28-31
259 T/s p.223-1.14-20, p.224-1.11-17
260 T/s p.225-1.41, p.224-1.9, p.228-1.19-34
261 T/s p.166-1.26-31
Comment

The evidence before the COI did not support any suggestion that the Tarin Kowt base was attacked by mortar fire. The evidence of the soldiers who were at Tarin Kowt at the same time as CAPT Paljakka denied such an attack except there was mortar fire nearby on one occasion when Afghan troops were training; the mortars were not directed towards the Australians or the main base.

Professor McFarlane having reviewed material provided to him, including part of the transcript concluded that:

CAPT Paljakka's suicide was directly related to his psychiatric disorder, namely alcohol abuse and dependence, post traumatic stress disorder and major depressive disorder.\textsuperscript{262}

He went on to opine that even the events outlined in the RTAPs report were capable of giving rise to PTSD. He went on to say that in his experience sufferers of PTSD can exaggerate the events that trigger the disorder\textsuperscript{263} and having experienced nightmares of events and then develop the belief that they are reality.\textsuperscript{264}

(ix) The actions of Special Operations Headquarters personnel

CAPT Paljakka on being posted to SOHQ in January 2006 was supervised by Soldier 11 whose view was that he had a good technical knowledge and enthusiasm for his trade as an ATO. Soldier 11 became aware of some marital issues which led to CAPT Paljakka being late for work or requiring short leave and time off.

Soldier 11 and another senior officer counseled CAPT Paljakka with regard to his duties who was regarded as an officer with further experience would develop into a "widely employable officer".\textsuperscript{265} CAPT Paljakka was nominated to command the Logistics Support Team #2 to be deployed to Afghanistan to support Special Task Force Group (soldiers). He was subjected to briefings and there was no indication of any issues that would have prevented deployment.\textsuperscript{266} CAPT Paljakka carried out his duties effectively and was described as a significant achievement.\textsuperscript{267}

Soldier 11 did not have contact with CAPT Paljakka from August 2006 to November 2006 due to his deployment. On his return it was learned that
CAPT Paljakka's performance was low. On 31 July 2006 CAPT Paljakka informed Soldier 11 that he had problems with alcohol and had been hiding it from everyone and on the 2 August 2006 Soldier 1 when visiting CAPT Paljakka at BH was also informed of the alcohol abuse and dependence by him. CAPT Paljakka explained that he had been drinking heavily for two to three years and had increased during the previous six months when he encountered marital difficulties. He indicated that he was drinking in the morning before work and during working hours.

It is of importance to outline that following the confession to Soldier 11, CAPT Paljakka attended FBE-MC and was admitted to BNH. He remained at BNH until his discharge on 10 August 2006 when he returned to light duties at SOHQ until commencing the AREP program at Richmond Air Base. Following his self-imposed discharge from the program he returned to full time duty. It was at this time his security clearance was downgraded to one of Restricted Access. The failure to complete the AREP program did not attract any administrative action by Soldier 1 or any SOHQ commander. At this time he was given the responsibility of logistics for a task force. The reasoning behind the decision was to ensure that CAPT Paljakka was fully occupied, therefore alleviating a further return to alcohol abuse and dependence.

Comment

Special Operations Command's action against Captain Paljakka at this juncture was appropriate. The evidence supports the action taken at that time. The concentrated efforts by CAPT Paljakka's senior officers were to ensure he was receiving adequate and appropriate treatment for his problems.

On his return from a visit by CAPT Paljakka to Queensland for reconnaissance purposes a colleague smelt alcohol on his breath. Between 29 October and 30 November 2006 there were a number of incidents with respect to his behaviour and use of alcohol.

268 Exhibit 56 p.8
269 Exhibit 32
270 Exhibit 56 p.9-10
271 Exhibit 56 p.13
272 Exhibit 56 p.13
273 Exhibit 56 p.15
The involvement of Soldier 1 was recorded by him by way of “records of conversation” which were tendered as Exhibit 57.

- 29 October 2006 Soldier 1 attended CAPT Paljakka’s home having been contacted by Ms. Rogers. CAPT Paljakka was intoxicated. CAPT Paljakka offered support by Soldier 1.\textsuperscript{274}

- 7 November 2006 CAPT Paljakka failed to attend work and was to travel to Perth W.A. to undertake a magazine inspection. He failed to attend work at all prior to the trip and took an early flight contrary to his instructions and his duties at the time;\textsuperscript{275} CAPT Paljakka informed by Soldier 1 his behaviour unacceptable and he needed to consider his future with SOHQ.

- He was interviewed by Soldier 1 on 10 November 2006 and informed that it was his last opportunity – he was also told:

  \textit{The next time he did not perform adequately in his capacity as the SOHQ AT or simply as an officer he would be charged and his career in SOHQ would be limited.}\textsuperscript{276}

- 28 November 2006 attended work left early leaving a note that his wife left him and requested leave. His application was refused by Soldier 1.\textsuperscript{277} Soldier 1 made attempts to contact him and failed receiving a call at 2110 hrs from him, he stated he had been drinking – told to stop drinking go to bed.\textsuperscript{278}

- 29 November 2006 and 30 November 2006 CAPT Paljakka failed to attend work, Soldier 1 informed Soldier 2 21 December 2006 meeting at SOHQ between Soldier 2, Soldier 1, Soldier 5, Soldier 8 and Soldier 6 regarding CAPT Paljakka. Kylie Rogers was contacted and it was determined that CAPT Paljakka should attend counselors/psychologist. Soldier 1 was also informed CAPT Paljakka’s mother had arrived in Sydney. Soldier 6 undertook to seek medical advice re his treatment.\textsuperscript{279}

- 1.12.06 Mrs. Paljakka had found her son unconscious and he was conveyed to RPA. Soldier 7 contacted medical staff BNH to transfer CAPT Paljakka.\textsuperscript{280}

\textsuperscript{274} Exhibits 56, 57, Document 29
\textsuperscript{275} Exhibit 56, 57, Document 10
\textsuperscript{276} Exhibit 57 Doc. 10
\textsuperscript{277} Exhibit 56 para.17
\textsuperscript{278} Exhibit 57 Doc. 12
\textsuperscript{279} Exhibit 57 Doc. 12
\textsuperscript{280} Exhibit 57 Doc. 14
- CAPT Paljakka discharged himself from RPA whilst still intoxicated against medical advice.\textsuperscript{281}

- 3\textsuperscript{rd} and 4\textsuperscript{th} December CAPT Paljakka reported as unwell to attend work, apologising to Soldier 1 for his behaviour.

- 4\textsuperscript{th} December readmitted to BNH.

- On being told that CAPT Paljakka admitted to BNH – contacted Dr. K. Hardwick who knew that he was readmitted.

- 6\textsuperscript{th} December Soldier 1 visited CAPT Paljakka at BNH.\textsuperscript{282} The conversation was recorded.\textsuperscript{283} CAPT Paljakka indicated had been offered another program for his alcohol problem and was urged by Soldier 1 to take the program\textsuperscript{284} however CAPT Paljakka indicated that he did not wish to attend. During the conversation CAPT Paljakka indicated that he had been drafting documents applying to be re-posted or transferred to the Reserve.\textsuperscript{285} He was told to get well – there was no mention of disciplinary action against him. CAPT Paljakka left the hospital having discharged himself, however he returned having spoken with his wife.

Comment

In the supporting statement prepared by CAPT Paljakka he wrote "...the applicant has now served for eight years and is yet to do an IEDD job (Improvised Explosive Device Disposal)\textsuperscript{286}

This is contrary to his version of events which occurred in Afghanistan. On the evidence it is also clear that CAPT Paljakka had given a considerable amount of thought to his future and warnings given to him by Soldier 1 regarding his situation within SOHQ. The documents indicated that he was prepared to leave SOHQ. However Soldier 1 did not take any action on the report given the circumstances of CAPT Paljakka.\textsuperscript{287}

- 11 December 2006 Ms. Rogers contacted Soldier 1 disclosing to him that her husband had distributed “explicit” photographs of her (taken by CAPT Paljakka) to her superior at her work.\textsuperscript{288} The Military and

\textsuperscript{281} Exhibit 57 Doc.15
\textsuperscript{282} Exhibit 56 para.19
\textsuperscript{283} Exhibit 57 Doc.21
\textsuperscript{284} Exhibit 57 Doc.16-21
\textsuperscript{285} Exhibit 57 Doc.21, T-s p.315-1.19-18
\textsuperscript{286} Exhibit 57 Doc.2 para.2
\textsuperscript{287} T-s p.315-1.10-18
\textsuperscript{288} Exhibit 51 Doc.2
NSW Police were notified – Ms. Rogers did not take out an AVO due to the effect it would have on her husband’s occupation.

AND FURTHER

Soldier 1 spoke with Dr. Kim Anderson at FBE-MC as to what action could be implemented towards CAPT Paljakka. Medical disclosure was not available to him. The PULHEEMS System does not recognise alcoholism as a medical condition. Dr. Anderson recommended an administrative solution to the problem.

- 12 December CAPT Paljakka met with Soldiers 1 and 2 and informed that consideration was being given to disciplinary action being taken against him. 289 CAPT Paljakka accepted what would occur and the seriousness of his situation. Soldier 1’s evidence was that if a soldier is administratively discharged the Career Management Agency made the final decision. 290

- Leave was granted to CAPT Paljakka until 15 January 2007.

- Soldier 1 had been told by Dr. Anderson that there was another disorder affecting CAPT Paljakka but she did not elaborate on the illness due to “medical in confidence” rules.

There is no doubt at that time Dr. Anderson had diagnosed potential PTSD. 291

Comment

The issue of a prohibition being placed on medical information with regard to soldiers and commanding officers is one which is common in all cases. The access to such medical information is important, particularly within the military system.

- 29 January 2007 Soldier 1 became aware of an incident in Canberra with Mr. Filewood – when a request of “shoot me” was made by CAPT Paljakka. He had been drinking heavily and taking drugs. The incident was reported to RMC Dunroon. CAPT Paljakka told to attend a meeting with Soldier 1. 292 The information regarding the incident in Canberra was not passed on to medical authorities in Sydney.

289 T/s p.295- 1.8-16
290 T/s p.295- 1.1-17; 296- 1.1-7
291 Exhibit 57 Doc.26
292 Exhibit 56 para.24, Exhibit 57 Doc.26
Comment

Soldier 1 accepted that with hindsight he should have passed the information to BNH.

- 30 January 2007 no attendance at work by CAPT Paljakka. CAPT Paljakka was then residing in quarters at HMAS Kuttabul which were visited by Soldier 1 as a result of his condition. CAPT Paljakka was taken to BNH.

Soldier 2 wrote to Dr. Kim Anderson FBE-MC expressing his concern with respect to CAPT Paljakka and stating that CAPT Paljakka had expressed ‘self harm’.293

- 2 February 2007 Soldier 1 was informed that CAPT Paljakka was to participate in a rehabilitation program at St. John of God within 10 days294 and Soldier 1 was told by Dr. Anderson that he could be managed medically at that time.

Soldier 1 did not have any further contact with CAPT Paljakka until finding him dead on 26 February 2007 at the Hotel Kings Cross Sydney NSW

- 8 February 2007 Soldier 2 was contacted through Soldier 6 by Dr. George Blackwood at BNH. Soldier 2 visited CAPT Paljakka. Soldier 1 was informed by Dr. Blackwood that there was a possibility that CAPT Paljakka also had an underlying Post Traumatic Stress Disorder. The Doctor advised Soldier 2 to be supportive of the Captain’s condition however to disclose to him that there were consequences to his acts.295 On speaking with him Soldier 2 told him he was a young man with his whole life in front of him and his actions were not compatible with service life and he would have to face the consequences of those actions on his discharge from the hospital, the administrative action may well lead to his discharge from the Army.296

Comment

Professor McFarlane’s view of the process adopted by Soldier 2 with respect to administrative action being taken was injudicious. However it was dealt with in a sensitive and supportive way, given the

293 Exhibit 41 para.3
294 Exhibit 56 para.29
295 T/s p.320-128-35, Exhibit 59 para.18
296 T/s p.323-1.5-14
circumstances. He went on to opine that it was necessary for CAPT Paljakka to be informed of the circumstances he found himself in. CAPT Paljakka was made fully aware of the situation given his discussion with Soldier 2 supra. Professor McFarlane made the following recommendation.

In all cases where administrative discharge is envisaged the ADF member should be given appropriate support.

The events of the 8th February had a marked effect on CAPT Paljakka; Soldier 2 denied that he made any reference to DOCM however CAPT Paljakka told Ms. Rogers that he had. The effect of being told of the consequences of his actions were described by Dr. Walker as having devastating effect on him. Ms. Rogers also described CAPT Paljakka as being devastated.

During 2006 – 2007 Soldier 8 provided legal advice to SOCOMD (incl. SOHQ) advised Soldier 2 on legal aspects of CAPT Paljakka’s behaviour.

- The advice following the 1 December 2006 meeting with Soldier 1 et al that insufficient evidence regarding charge of AWOL at that time. This was the first time that Soldier 8 knew of CAPT Paljakka’s alcohol problem.

- Advice given to Soldier 2 following a number of further meetings regarding potential disciplinary action with respect to five charges. Soldier 8 was not aware of potential PTSD being diagnosed at that time.

- Advice to Soldier 2 regarding procedures required prior to decision by DOCM.

Exhibit 76 a bundle of legal documents provided by Soldier 8 indicates that on 22 January 2007 disciplinary action against CAPT Paljakka was to proceed. CAPT Paljakka was never informed of this decision due to his circumstances.

Soldier 6 Senior Health Officer (RAAMC) had the responsibility to provide advice to the SO Commander regarding the health care of
He attended meetings with commanders and had contact with Dr. Hardwick who informed him that CAPT Paljakka had a degree of PTSD as a result of his deployment to Afghanistan. The exchange resulted in CAPT Paljakka being readmitted to BNH on 4 December 2006. Soldier 6 had been attached to the ADF at that time for about twelve months having transferred from the British Army. It is important to note that when CAPT Paljakka was admitted to RPA on 1 December 2006 and discharged himself the Military Health Services could not send an ambulance to transfer him unless he consented.

On 18 December 2006 Soldier 2 consulted Soldier 6 about CAPT Paljakka’s work performance. Soldier 6 stated:

"Given that the unit is a relatively small one we could not continue to operate with a key position manned by a member who had considerable health and welfare problems which were impacting significantly on his performance."

Comment

I find that it is significant that Soldier 2 sought advice from both Soldier 6 and Dr. Blackwood before he visited CAPT Paljakka on the 8th February 2007. The purpose of the advice was to establish that he should inform CAPT Paljakka of possible administrative action. It was not an act carried out by Soldier 2 other than with sensitivity and consideration.

The review of the evidence conducted by Professor McFarlane concluded that the actions of Soldiers 2 and 1 showed that they appreciated the necessity to mentor and support ADF members who were to be dealt with by the administrative process. Professor McFarlane concluded that it appeared that there may have been little that could have been done in CAPT Paljakka’s case.


When CAPT Paljakka was found to be absent from his room at St. John of God Hospital on 25 February 2007 a search of the Hospital and grounds were conducted by hospital and security staff. He was found to be missing.
when an hourly check was made. Nurse Saliba had conducted a suicide risk assessment prior to that time based on his observations interaction and clinical notes. The risk assessment had been completed without any knowledge of previous suicide threats. CAPT Paljakka was assessed as a "medium risk", however Nurse Saliba had miscalculated the scores denoting a "reasonable" risk. CAPT Paljakka's assessment after he had been found to be missing from the Hospital. A number of calls were made to CAPT Paljakka's mobile telephone without success. A search of his room revealed empty alcohol bottles and a syringe secreted under his bed.

Professor McFarlane's view of the totality of the evidence as to suicidal ideation, was CAPT Paljakka should have been on a higher level of observation. However the assessment of the Professor had to include all previous information regarding self harm ideation, which on the facts before the Commission was fragmented.

There was overwhelming evidence from Dr. Mark Walker, Dr. Dang Nguyen and Nurse Cheryl Newton that CAPT Paljakka did not disclose that he had experienced any suicidal ideation. Dr. Nguyen in her evidence stated that emphatic denials of suicide do not happen often and her assessment was based on CAPT Paljakka's cooperation.

Following the alert being issued when CAPT Paljakka was found to be missing on 25 February 2007 from St. John of God, Constable Donald Sproh and Senior Constable Kirk of the New South Wales police arrived at about 12.50 am; a search ensued and a radio message broadcast on the police radio with regard to a missing person. It was not until 5.15am 26 February 2007 that the information was put into the police computer system. The foregoing information was not available to the police who spoke with CAPT Paljakka at Woolloomooloo at about 6.45am 26 February 2007, who believed at the time he was drug affected. The police at that time were not aware of his departure from St. John of God Hospital. CAPT Paljakka answered questions and told them where he was staying and that he was an army officer. The observations of the police regarding CAPT Paljakka did not warrant him to be assessed as being mentally
disturbed under the Mental Health Act (NSW) requiring admission to hospital. The Kings Cross' police some time later made the connection between the two events and telephoned St. John of God Hospital regarding the location of CAPT Paljakka. Staff at St. John of God then rang BNH, who informed the Naval Police at Garden Island. The chain of events led to Soldier 1 and two Naval Police attending at the Hotel intending to arrest CAPT Paljakka for being Absent Without Leave.

Comment

On the evidence regarding CAPT Paljakka leaving St. John of God Hospital, the hospital staff, the NSW police and the staff of BNH did every thing that they could at the time. The situation did not warrant any further action on information being held at the time. Soldier 1 who did have an insight into prior suicidal thoughts and action believed at the time he went to the Hotel that CAPT Paljakka was to be arrested. Soldier 1 acted promptly on receipt of the information as to the location of CAPT Paljakka.

In the opinion of Dr. Anderson the issue of CAPT Paljakka's history of suicidal thoughts, which he had denied, would not be sufficient grounds to have him sent to a psychiatric hospital under the Mental Health Act.  

320 T/s p.13- 1.1-19, T/s p.22-23
321 T/s p.137- p.35-47
5(d) ANY WEAKNESS OR DEFICIENCIES IN DEFENCE SYSTEMS, EQUIPMENT, PROCEDURES AND TRAINING ASSOCIATED WITH CAPTAIN PALJAKKA’S DEATH.

(i) Communication between ADF health providers and ADF commanders.

The Medical Employment Classification system (MEC) was analysed by LTCOL Siedl. The relevance of the system was that CAPT Paljakka had been reclassified by Dr. Dunstan. The reclassification saw CAPT Paljakka reduced to MEC3 from MEC1. The MEC system reclassification was correctly applied enabling him twelve months to recover from his condition.

The MEC system is defined in the DI(G) PERS 16-15 and the PULHEEMS system (DA PERS 151-1) which applies only to the Army. The concern that ADF members have with respect to a lower classification is the loss of their employment, therefore a barrier with regard to reporting of mental and other health problems which include the abuse of alcohol.

(ii) Medical and psychological “in confidence” information

The practice within the ADF:

The provision of medical or psychological “in confidence” can only be released in accordance with Paragraph 15 of the DI(G) PERS 16-20 only in defined circumstances which includes the consent of the ADF member.

During the evidence of GPCAPT Lambeth he stated that civilian medical contractors enter into a contract to be bound by Defence Instructions. He noted that there was no formal policy with regard to the training of such medical contractors in relation to such Defence Instructions. It was also indicated that such civilian medical contractors have competing duties to their professional bodies.

There has also been litigation with regard to the disclosure of private health information.

The issue with respect to the disclosure of the medical condition of ADF members to their commanders was the subject of comment not only by GPCAPT Lambeth (supra) but also by Professor McFarlane. He also stated that the privacy laws are a significant impediment on the passage of information and he emphasised the
importance of obtaining written consent from patients at the commencement of a consultation after discussions regarding the confidentiality provisions.  

(iii) **Two views expressed by medical contractors within the ADF**  

- Dr. Kim Graeme Dunstan, Contract Medical Practitioner employed at FBE-MC is the equivalent of a General Practitioner in private practice. His view was that in his experience there is not any contact with a patient’s chain of command.  

  Similarly he had no knowledge of any protocols that existed at FBE-MC on the issue in general or in respect of alcohol abuse and he was unaware what the situation would be if confronted with an ADF member under the influence of alcohol.  

- Dr. Kim Suzanne Anderson, Contract Medical Practitioner, Senior Medical Officer, Medical advisor to commanding officers HMAS Kuttabul and Clinician at FBE-MC. She outlined the practice with respect to ADF member consultations. The units of members are not informed of treatment or management of patients. The only contact with a patient’s unit is to inform them of a member not being fit for work. There is no protocol at the Medical Centre with respect to alcohol abuse and contacting the member’s unit. The reporting of such a matter would be a breach of medical “in confidence” unless there was consent from the patient. The same principles apply with regard to a member presenting with drug related problems.  

  The Doctor mentioned that the presentation of a member with alcohol and drug abuse was a medical issue and therefore covered by the “medical in confidence rule”.

The evidence of SOHQ Soldiers 1 and 2 disclosed that they had difficulty in following what was happening with respect to treatment and diagnosis relating to CAPT Paljakka. Soldier 2 even though he had been advised by Soldier 6 on occasions wrote a letter on 30 January 2008. The letter requested information as to what was going on with CAPT Paljakka.  

The evidence clearly indicates that SOHQ staff officers had contact with Dr. Anderson on numerous occasions between 1 December 2006 and 6 February 2007 requesting information and advice regarding CAPT Paljakka.
Comment

The situation with regard to "medical in confidence" requires resolution. The only reasonable resolution is that recommended by Professor McFarlane regarding the consent of the member which should be obtained on consultation.

It is acknowledged that a resolution of this issue presents numerous problems with regard to the disclosure of medical information which could lead to the discharge of the member. However the consequences of soldiers being affected by alcohol or drugs have the propensity for severe consequences. The problems with regard to this issue are outlined in the report of Professor McFarlane with regard to the risk factor and the management of alcohol dependent ADF members. The abuse of alcohol by Special Forces Soldiers is addressed.\textsuperscript{337}

(iv) Information sharing by medical practitioners within the ADF

Professor McFarlane's view was that in the case of CAPT Poljakka the systemic management was adequate. His view was determined following examination of the statements and transcript of the evidence before the COI. He outlined the problems as follows:

"...One of the difficulties that I think the ADF faces in the management of an officer or soldier such as CAPT Poljakka is that the health facilities are somewhat fragmented and contract medical officers are used, and that the ADF doesn't have the necessary assets to provide the care that he really required within the ADF; and this means that there are a series of potential holes into which the passage of information can fall, or where there can be a failure of adequate handing on of information. ..."\textsuperscript{338}

Professor McFarlane went on to outline what the responsibilities are within the Health Service. He also raised the issue of "medical in confidence" and the need for consent summarising the issue of patient confidentiality as follows:

"... patient confidentiality?— are matters that need to be discussed directly with the patient and their permission needs to be obtained, and I think the demands of practitioners — the bar has been raised considerably since the introduction of privacy legislation...there had to be an exemption given for medical practitioners to even ask a family history from patients, under the privacy legislation, and many practitioners now will..."\textsuperscript{339

\textsuperscript{337} Exhibit 122.p.38
\textsuperscript{338} T's p.722-1.21-27
specifically, at the time of first consultation, actually get consents to speak to next of kin..."  

There was no such procedure embarked upon in the cast of CAPT Paljakka from a search of the files.\(^{339}\)

For the period of time between 31 July 2006 and 26 February 2007 CAPT Paljakka was attended by numerous doctors, psychiatrists, psychologist, nurses and counselors. He also was a patient at five separate hospitals, three of which were military. The diversity of his treatment highlights the difficulty found by medical practitioners who treated him. Professor McFarlane commented:

"...One of the other important issues in regards to a patient such as CAPT Paljakka, where he was seeing multiple practitioners, is the challenge of each practitioner to appropriately review the interactions and then summarise the information that has been accumulated in the course of his care; and particularly when it comes to suicidal ideation and suicidal risk, it's not simply a matter of asking an individual whether they are currently suicidal. ..." \(^{341}\)

Another criticism by Professor McFarlane related to the way in which Defence Medical Records are kept. His view was that they are often not very systematically inserted in the file, making them very difficult to read.\(^{342}\)

Due to the diversity of hospitals where CAPT Paljakka was treated SOHQ staff encountered difficulties and confusion as to which hospital had the supervision of his treatment.

LTCOL Siedl during his evidence, emphasised other problems with the ADF Medical System regarding the ability to enable all psychological assessments being available to medical practitioners. The reason outlined for the failure was due to the psychology in confidence marking carried by the reports. His view was that where psychological assessment/consultation was for mental health purposes then all health professionals involved in the medical care of a member should share the information.\(^{343}\)

\(^{339}\) T/s p.724-1.38-46  
\(^{340}\) T/s p.725-1.1-2  
\(^{341}\) T/s p.723-1.8-15  
\(^{342}\) T/s p.723-1.6-8  
\(^{343}\) Exhibit 103 para.9
LTCOL Seidel suggested a resolution to the impediment as follows:

*Psychologists making mental health entries could either use the markings “medical in confidence” or a new marking Mental Health in Confidence could be used.*

The “privacy” marking is the subject of Defence Instruction (General) 16-20 Privacy of Health Information in Defence.

_The more radical view of GPCAPT Lambeth was that all ADF medical records (medical, psychological) should be combined in a single data base. He acknowledged that the implementation of such a system would be expensive._

The above recommended change although expensive would be invaluable in the future with regards to health care of members of the ADF especially those who have returned from deployment.

GPCAPT Lambeth was also of the view, as was Professor McFarlane, the MEC system is a barrier to reporting mental health problems.

COL Peter Murphy, Director Defence Force Psychology Organisation, drew attention to the variation in the coordination of mental health professions from region to region; there were a number of factors referred to by him, one of which was the primary location of health practitioners are not always co-located with each other. He went on to raise his concerns regarding the lack of routine sharing of mental health information. He was of the view that the problem can be remedied by the issue of a health directive which he stated was being prepared. In the interim he suggested that duplicate copies of reports etc should be placed on both the medical and psychological files.

Professor McFarlane also suggested that in order to enable a transfer of information between BNH and St. John of God Hospital to be efficient, required protocols be put in place. The end result of such a procedure would be of significant benefit to all. In the case of CAPT Paljakka contact between St. John of God and BNH was the decision of one nurse. No one was compelled to inform them.

344 Exhibit 103 para.10
345 Exhibit 101
346 T/l p.765-7.44, p.766-1.1-6
347 Exhibit 52 para.60
348 Exhibit 52 para.65-66
Suicide management/prevention within the Australian Defence Force

GPCAPT Lambeth outlined that within the area of mental health there were three major policy documents. The Defence Instruction (General) covers:

- mental health strategy
- management of suicide
- management of critical incident mental health support.

The Defence Health Services Division is preparing further documents and health directives to enable medical practitioners to understand procedures to be taken in such circumstances.349

- Defence Instruction (General) DI(G) PERS 16-26
  Issued 5.2.2007 – Management of Suicidal Episodes in ADF.350

- Defence Instruction (Navy) 40-5
  Management of Suicidal Behaviour (RAN)351

- Land Command Directive 33/05
  Issued 30.4.2005 (Mental Health Strategy – Land Command. Management in the case of members who have engaged in suicidal behaviour or suicidal ideation).352

On 5 February 2007 when DI(G) PERS 16-26 was promulgated it was a tri-service document unifying the numerous single service directives, relating to suicide management, thus implementing a common approach by commanders. The document provides clear guidelines with regard to a management plan. It is trite to state that the successful application of such management is dependent on the training of commanders and contract medical practitioners (reference Professor McFarlane supra). It must also be recognized that DI(G) PERS 16-26 came into force three weeks before the death of CAPT Paljakka and whilst he was a patient in BNH and St. John of God Hospital.

The policy documents Exhibits 125 and 126 whereas they did not have application to Special Operations Forces, Special Operations Headquarters Directive 09/05 issued 15 July 2005 relating to mental health strategy within Special Operations Command applied.353 The evidence was that the Land Command Directive 33/05354 did not apply to Special Operations Forces.

349 T/s p.763-1.16-22
350 Exhibit 124
351 Exhibit 125
352 Exhibit 126
353 Exhibit 134
354 Exhibit 126
In addition to the above policy documents reference was made to the following by LTCOL Siedl:

- Defence Instruction General DI(G) PERS 16-20
- The Privacy of Health Information in ADF
- Defence Instruction General DI(G) PERS 16-15 (ADF Medical Employment System (MEC))

Also tendered during the Hearing phase:

- Defence Instruction (A) Army PERS 124.29
- Defence Instruction (General) PERS 16-22
- Defence Instruction (General) PERS 16-24
- Defence Instruction (General) PERS 55-4
- ADF Mental Health Strategy
- Health Directive No.26
- Health Bulletin 11/2003
- Defence Instruction (General) 11-2
- Defence Instruction (General) PERS 16-26
- Defence Instruction (General) PERS 15-2

The evidence shows that staff officers of SOHQ had information relating to suicidal ideation and behaviour on the 30 January 2007, when Soldier 1 found CAPT Paljakka intoxicated in his accommodation at HIMAS Kuttabul prior to being admitted to BNH.

The significance with respect to the action of Soldier 1 at that time and compliance with (SOCMD) Directive 09/05 requires determination.

Annexure A of Exhibit 134, Management of Suicidal Behaviour by Army Personnel. The evidence of Soldier 1 described marks which were visible on CAPT Paljakka's wrists and that he had been told by CAPT Paljakka that he had thoughts of suicide. The actions of CAPT Paljakka and the observation of Soldier 1 attract the provision of Para.6 of the

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355 Exhibit 191
356 Exhibit 91
357 Exhibit 90
358 Exhibit 92
359 Exhibit 93
360 Exhibit 94
361 Exhibit 96
362 Exhibit 97
363 Exhibit 98
364 Exhibit 99
365 Exhibit 102
366 Exhibit 124
367 Exhibit 140
368 T's p.296-1.9-24
Annexure. The reporting of the incident by Soldier 1 complies with Directive. CAPT Paljakka was removed from his accommodation and taken to the BNH to be cared for by health practitioners. In my view there was no necessity to instigate a Risk Intervention Team (RIT) at that time.

The function of such RIT is dependent on the member (CAPT Paljakka being assessed as "high risk" of suicide. The evidence of Soldier 1 was that at that time he was not aware of the Directive. The evidence of Soldier 1 was neither challenged nor contradicted and is accepted as being a truthful response. That clearly shows that commanders or at least some commanders are not trained sufficiently with regard to this important aspect of health management.

GPCAPT Lambeth indicated that suicide prevention and management was supervised by his office. He indicated that there are training and education programs being conducted to alert members to the problem.\textsuperscript{369} The training of medical practitioners is an important goal.

An overview by Professor McFarlane was as follows:

- There was no clinician who took overall responsibility for CAPT Paljakka in profiling the risk of suicide.
- ADF Health Services should adopt a Suicide Risk Assessment document as used by St. John of God Hospital.\textsuperscript{370}
- The contrary view was provided by GPCAPT Lambeth who said it was a double edged sword; it could be valuable or it could erode clinical judgment.\textsuperscript{371}
- There is not a mandatory training program for medical practitioners in the ADF.
- Professor McFarlane suggested that the ADF should in the future conduct routine suicidal risk assessments on all patients admitted in respect to alcohol related problems. He stated: "Given the risk to the career of Defence Force members in this situation and equally the probability of there being major relationship instabilities would warrant such a strategy. Impulsivity is a component of alcohol related disorders and is a factor that is associated with the increased risk. (Sher et al 2007).\textsuperscript{372}

\textsuperscript{369} T/s p.768- 1.15-33  
\textsuperscript{370} T/s p.726- 1.33, p.727- 1.1-3  
\textsuperscript{371} T/s p.769- 1.19-38  
\textsuperscript{372} Exhibit 122 p.35, para.2
FINDINGS

The Commission finds:

(a) That Captain Paljakka died from hanging which was self inflicted. He intended to take his own life. The Commission accepts the unchallenged evidence of Dr. Matthew Orde, Pathologist, New South Wales.

(b) AND FURTHER that CAPT Paljakka's suicide was directly related to his psychiatric disorders, namely alcohol abuse and drug dependence. The Commission also finds that on the available evidence CAPT Paljakka was suffering from PTSD and major depressive disorder, which affected him at the time of his suicide.

(c) That CAPT Paljakka had been consuming alcohol to excess for a period of at least two years to three years before his death. It was undetected until March 2006 by engaging in deceptive behaviour.

(d) That CAPT Paljakka had not sought any voluntary assistance with regard to alcohol abuse prior to his admission to Balmoral Naval Hospital in August 2006.

(e) That CAPT Paljakka had used illicit drugs prior to his relationship with Ms. Kylie Rogers. The use of the drugs escalated following 2006 and on his return from Afghanistan on 1 June 2006. The drug taking had a significant effect on his well being and his mental health.

(f) That CAPT Paljakka was arrested by the New South Wales Police on 28 July 2006 for possession of amphetamines at Kings Cross Sydney.

(g) That on 15 December 2006 CAPT Paljakka was convicted on his plea of guilty in the Dowling Centre Local Court Sydney (DCLC). Without authority CAPT Paljakka had photocopied documents from his medical files which were tendered at the court hearing. The charge was dismissed under S32 Mental Health (Criminal Process) Act 1990 (NSW). His arrest or his appearance in the Dowling Centre Local Court was not reported to the ADF in compliance with DI(G) PERS 15-2.

(h) The arrest and appearance of CAPT Paljakka in the DCLC had a significant effect on him with considerable anxiety. He was fully aware that such an offence had a high probability of leading to his discharge. The period of time between his arrest and conviction was a period of extreme uncertainty and remained a significant issue to him for a period of six months. Following the court appearance he sought assistance at BNH for his alcohol abuse.
(i) The effects of excessive amounts of alcohol and illicit drugs in the workplace have to be dealt with administratively. It is critical that ADO members are not impaired by any substance.

(j) That administrative process was embarked upon by Soldier 2 having first informed CAPT Paljakka of the action being instigated on 23 January 2007.

(k) CAPT Paljakka’s failure to disclose his suicidal ideation caused clinicians and other medical personnel difficulty in assessing correctly his suicidal risk.

(l) That the standard clinical care provided by staff of both BNH and St. John of God was appropriate. However there was a systemic failure to supply all of the information held by them regarding CAPT Paljakka.

(m) The following incidents CAPT Paljakka related to people, did not occur:

- That there was not an incident when a helicopter he was traveling in, was fired upon with small arms.

- That there was not an incident when he arrived in Tarin Kowt and disembarked from a C130 aircraft where he was subjected to sniper fire.

- That on the evidence before the Commission there was not an incident which involved CAPT Paljakka shooting dead an Afghan man when on piquet duty at Tarin Kowt.

- That on the evidence before the Commission there was not an incident which resulted in CAPT Paljakka being shot in his body armour when on operations with troops near Kandahar or on any other operation.

- On the evidence before the Commission there is no evidence to conclude that CAPT Paljakka witnessed the sexual assault of a child during deployment in Afghanistan.

(n) On the evidence before the Commission there is no evidence to conclude that CAPT Paljakka ever reported such events (supra) to any person or persons within the ADF.

(o) That CAPT Paljakka developed traumatic memories which were an elaboration of what he had heard and been told about during his service in Afghanistan. This is a recognised phenomenon in some individuals with Post Traumatic Stress Disorder.
(p) The relationship between CAPT Paljakka and Ms. Rogers, although separated at the time of his death, had an expectation by Ms. Rogers to resume. There is evidence before the Commission that supported a reconciliation being achieved.

(q) At the time of his death CAPT Paljakka was in possession of a mobile telephone. A check by the police found a number of missed calls which had been received after 8.39am, 26 February 2007. There were also a number of SMS messages to his wife, one at 11pm 25 February 2007: “Will you speak to me at the end? It would mean a lot to me” and “I’ll be gone tonight”. Ms. Rogers had spoken to CAPT Paljakka on the telephone on the evening of 25 February 2007 and when the text messages were sighted on 26 February 2007 she believed that he was safe in St. John of God Hospital receiving treatment and there was no deliberate act by her to ignore them.

(r) That CAPT Paljakka whilst detained in BNH and St. John of God Hospital prior to his death continued to drink alcohol and use illicit drugs.

(s) CAPT Paljakka on his return to Australia from Afghanistan commenced to cohabit with his wife. His drinking increased significantly and he became violent. As a result of the violence the police and Soldier 2 were informed. It was also at this time that Ms. Rogers noted that he was experiencing nightmares. He was consuming up to thirty standard drinks per day.

(t) That CAPT Paljakka although on a number of occasions disclosed that he was an alcoholic and exhibited a desire to stop drinking he was never able to continue with the programs in which he had been enrolled.

(u) That CAPT Paljakka was provided with an acceptable standard and quality of care at both BNH and St. John of God Hospital.

(v) That CAPT Paljakka had personal problems relating to his consumption of alcohol. Whereas the foregoing had a considerable effect on him preventing him from the reality of his tenuous position.

(w) That the transfer of CAPT Paljakka from BNH to St. John of God Hospital on 14 February 2007 was not managed effectively. There was no detailed clinical history or observations with regard to suicidal thoughts and behaviour supplied to the hospitals. The absence of a longitudinal perspective of CAPT Paljakka’s symptoms and behaviour meant that the risk assessment could not take account of earlier suicidal ideation and actions during the admission.

(x) That the failure by BNH to adequately supply St. John of God hospital with the documents (w) above was a systemic failure and not the failure of an individual medical officer from BNH.

373 Exhibit 7
(y) There was not a deliberate decision by any staff member of the BNH to withhold information in respect to previous disclosures and observations regarding suicidal ideation or behaviour with respect to CAPT Paljakka.

(z) That all members of the SOHQ (SOCOMD) acted appropriately in the circumstances with regard to CAPT Paljakka. Soldiers 1 and 2 dealt with the problems in a sensitive and caring manner at all times therefore providing CAPT Paljakka with numerous opportunities to avail himself of the professional assistance available. It was CAPT Paljakka who failed to respond to the offers of assistance. There was no authority to have CAPT Paljakka detained in an institution for treatment against his will.
RECOMMENDATIONS

The Commission of Inquiry makes the following recommendations.

1. That a defined protocol is developed and published regarding the transfer of ADF patients between military hospitals and from military to civilian hospitals (either private or public) with respect to the documentation/information that is forwarded at the time of transfer. The documents should include clinical notes, nursing notes and all assessments made. The documents should clearly state the patient’s suicide risk and divulge all episodes of suicidal ideation available at the time.

2. That medical staff of ADF hospitals should be counseled/trained with regard to the broaching and obtaining consent from ADF members to enable the forwarding of information to a third party.

3. That Defence medical records are kept in a standard format and follow a systematic method of compilation to ensure an easy review of the information.

4. That there is a review with regard to medical information being passed to commanders to enable the proper management and safety in the workplace. The significance of such a review is the situation where a patient’s judgment is impaired as a result of intoxication or the affect of drugs.

5. That general medical contractors and others are properly trained in diagnosing Depression and Post Traumatic Stress Disorder. This would ensure that all medical officers have an adequate level of training in the provision of health care for members.

6. That a routine suicidal risk profile procedure is introduced to all military hospitals as routine following alcohol/drug related admissions.

7. That a protocol of notifying ADF by the New South Wales Police et al with regard to the arrest of ADF members, leading to an appearance before a court

8. That the ADF should monitor and support members facing administrative discharge procedures and further –

9. That members should be systematically reviewed regarding their mental health, given taking into account the level of combat exposure.

10. That resourcing of ADF mental health services is reviewed with emphasis on the provision of an adequate capacity to diagnose and treat PTSD.
11. That resourcing of the drug and alcohol section within the Directorate of Mental Health requires review with the aim of ensuring that sufficient staff is engaged in programs which would be available for members.

12. That the Directorate of Mental Health is sufficiently resourced to implement trends that emerge by implementing treatment programs.

13. Recommendation (Page 38)
   There should be a uniform policy with regard to the access to evidence regarding potential security concerns. In the event of evidence being examined and security concerns are identified the reasons should be directly relayed to the COI president.

14. Recommendation (Page 44)
   That in all assessments carried out by nursing staff of military hospitals all significant suicidal ideation notations should be highlighted and brought to the attention of medical practitioners.

15. Recommendation (Page 48)
   On transfer of patients from military hospital to non-military hospitals there should be the designation of a particular medical officer who is responsible for the disclosure of all relevant information particularly with regard to alcohol, drug abuse and particularly suicidal ideations. The recommendation should form part of a protocol issued by the particular hospital. The documentation should include all nursing notes and assessments.

16. Recommendation (Page 51)
   (a) In future cases of alcohol related admissions, a routine suicidal risk profile is conducted on admission to a Defence medical establishment.
   (b) The training of clinicians directed to instilling a greater awareness of links between alcohol dependence and Post Traumatic Stress Disorder (PTSD).

17. Recommendation (Page 60)
   In all cases where administrative discharge is envisaged the ADF member should be given appropriate support.
DEFENCE (INQUIRY) REGULATIONS

CHIEF OF THE DEFENCE FORCE
COMMISSION OF INQUIRY

INSTRUMENT OF APPOINTMENT

Pursuant to Regulation 109 of the Defence (Inquiry) Regulations 1985, I, Air Chief Marshal Allan Grant Houston, AO, AFC, Chief of the Defence Force, appoint a Commission of Inquiry constituted by Mr Frank Cullen for the purpose of inquiring into the circumstances surrounding the death of Captain Andrew Paljakka (the Commission), as specified in the terms of reference;

And pursuant to Regulation 112 of those Regulations, I appoint Mr Frank Cullen to be the President;

And pursuant to Regulation 115 of those Regulations:

(i) I direct the Commission to adopt practices and procedures consistent with those Regulations and which are appropriate and adapted to the expeditious collection of reliable and accurate evidence in the circumstances of the Commission’s inquiries;

(ii) I authorize the President to issue Practice Notes in respect of practices and procedures proposed to be adopted in respect of the Commission’s inquiries;

(iii) I direct the Commission to submit such reports as are specified in the terms of reference; and

(iv) I direct that Commission records may not be publicly released outside of the Commission’s hearings other than in accordance with Regulation 63 of the Regulations;

And pursuant to Regulation 117 of those Regulations, I confirm that the Commission shall conduct its inquiry in private, except as otherwise provided in this instrument of appointment;

And pursuant to Regulation 117(2)(b) of those Regulations, persons who are, in the opinion of the President, immediate family members or close friends of Captain Paljakka may attend Commission hearings, other than those hearings which involve the disclosure or discussion of classified information above the SECRET level—PROVIDED THAT, for Commission hearings which involve the disclosure or discussion of any classified information, such persons are made subject to a direction issued by the President under Regulation 62 prohibiting absolutely, disclosure of security classified information from that part of the Commission’s hearings;

And pursuant to Regulations 119 of those Regulations, I direct that all oral evidence to be given before the Commission shall be on oath or affirmation; and
And pursuant to Regulation 51 of those Regulations, I appoint Squadron Leader James Gibson, a legal practitioner, as Counsel Assisting the Commission.

A.G. HOUeTON, AO, AFC
Air Chief Marshal
Chief of the Defence Force

Appointing Authority

August 2007
DEFENCE (INQUIRY) REGULATIONS

CHIEF OF THE DEFENCE FORCE
COMMISSION OF INQUIRY

TERMS OF REFERENCE

Introduction

1. Pursuant to the Instrument of Appointment of 27 September 2007, the Commission of Inquiry is appointed to inquire into the circumstances surrounding the death of CAPT Andrew Paljakka.

Background

2. I am advised that on 26 Feb 07 CAPT Paljakka was found dead at the Kings Cross, NSW. There are indications suggesting that he took his own life.

3. CAPT Paljakka was a member of the Australian Regular Army when he died. I am advised that preliminary information indicates that his death may have arisen out of, or in the course of, his service in the Army. Accordingly, I have decided to appoint a Commission of Inquiry pursuant to Part VIII the Defence (Inquiry) Regulations.

Inquiry Task

4. The Commission of Inquiry is to obtain evidence and to provide me with a report detailing, with reasons, the findings of the Commission as to:

   a. the circumstances surrounding the death of CAPT Paljakka 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 Defence actions and decisions materially relevant to CAPT Paljakka’s death, both prior and subsequent thereto.

   c. any weaknesses or deficiencies (isolated or systemic) in Defence systems, policies, equipment, practices, procedures and training associated with CAPT Paljakka’s death.

5. The findings and recommendations of the Commission may be used by me:

   a. primarily as the basis for appropriate remedial action in respect of any weaknesses or deficiencies (isolated or systemic) in Defence systems, policies, practices, equipment, procedures and training as may be identified in the Commission’s report; and

   b. also to inform, subject to Regulation 63, CAPT Paljakka’s next-of-kin and other family about the circumstances surrounding his death.
Recommendations

6. Without limiting the scope provided for by Regulation 110, I am particularly interested in considering recommendations regarding actions that the Commission believes should be taken with respect to any weaknesses or deficiencies (isolated or systemic) in Defence systems, practices, policies, procedures and training associated with the death of CAPT Paljakka.

7. Recommendations should be clear, reasoned, succinct, measurable and achievable. The Commission is authorized and encouraged to consult widely regarding recommendations that it proposes to make in its report.

8. Pursuant to Regulation 110, recommendations should be explicitly linked to findings made in the Commission’s report. For clarity and convenience, recommendations should be published in a table format containing the following detail for each recommendation:
   a. the finding(s) to which it relates; and
   b. the relevant paragraph(s)/page(s) reference within the report where the related finding(s) is contained.

Interim reports and monitoring

9. Inquiry Plan. Following completion of Inquiry Planning (and further to CDF Directive 12/2006), the Commission is to provide me with an Inquiry Plan. The Inquiry Plan should build upon the initial Scoping Plan and is intended to provide me with indications of the likely complexity and duration of the Inquiry, as well as resource implications, for which I retain ultimate responsibility. The Inquiry Plan should address the matters listed in paragraph 7.14 of ADFP 06.1.4—Administrative Inquiries Manual.

10. Monthly Progress reports. During the course of the Inquiry, the President is to provide me with a written update on the last working day of each month informing me of progress made against the Inquiry Plan, these Terms of Reference, and other matters of significance to the President.

11. Other reports. The President is to provide me with reports on matters he believes require my urgent attention or action. Such issues might include significant matters affecting the conduct of the Commission’s inquiries, Defence safety, security, operational effectiveness or the welfare and wellbeing of ADF members, Defence employees, or persons otherwise potentially affected by the Commission of Inquiry.

Documentation

12. In addition to the requirements of sub-regulation 123(5), the following are to accompany the Commission’s report:
   a. references to all relevant orders or publications referred to by the Commission in the course of making findings and recommendations;
   b. imagery of articles (other than documents) tendered as exhibits before the Commission and the location of those articles;
   c. notices sent to, and any responses from, individuals against whom it is contemplated adverse findings may be made (unless the Commission believes that doing so would be unfairly prejudicial to the interests of a person sent such a notice);
d. any external legal advice obtained by the Commission (with appropriate markings of any legal privilege);

e. these Terms of Reference;

f. the Instrument of Appointment;

g. any written communications between the Commission and the Appointing Authority;

h. a succinct executive summary of the report;

Representation of affected persons

13. Where the President of the Commission determines that a person may be affected by the inquiry pursuant to Regulation 121, arrangements for the representation of that person by a particular ADF Legal Officer will be made by the Director of Defence Counsel Services (DDCS). Accordingly, the President will notify DDCS of any person that may be affected.

14. Where the President of the Commission determines that the record or reputation of a person who has died may be affected by the inquiry pursuant to Regulation 121, arrangements for the legal representation of a single representative of the deceased will be made by the DDCS. Accordingly, the President will notify DDCS whether the record or reputation of the deceased may be affected and who the single representative of the deceased is.

No findings of criminal/disciplinary offences

15. The Commission is not to conclude or find that a disciplinary or criminal offence has been committed by any person. Nor is it to use the language of the criminal law when describing particular conduct or behaviour. If during the course of the Commission of Inquiry the view is formed that a person may have committed an offence under the criminal law or the Defence Force Discipline Act 1982—with the exception of offences wholly within the scope of DFDA sections 60, 35 or 29—the Commission must suspend that part of the Inquiry and refer the matter to me for consideration. There is no requirement to suspend an Inquiry in respect of relatively minor incidents merely because they may support proceedings under DFDA sections 29, 35 or 60. However, all potential offences under these sections are to be reported to me as soon as it is practicable to do so. Care needs to be taken to ensure that continuing with the Inquiry does not unduly prejudice any criminal or disciplinary investigation. Furthermore, the Commission should be aware of Defence policy concerning the reporting of notifiable incidents under Dl(G)ADMIN 45-2 Reporting and Investigation of Alleged Offences within the Australian Defence Organisation.

Security

16. The instrument of appointment permits the President allow immediate family members and close friends of CAPT Paljaika to be present during BOI hearings where classified information (up to and including SECRET) is expected to be disclosed—but only where the President issues a direction under Regulation 62. Any such direction is to be reinforced by protective security briefings to family members and close friends of the deceased. Where appropriate, the President may require such persons to sign an undertaking that they will protect information that they receive during Commissioner hearings.
Report

17. You are to complete your report by 10 February 2008 or, if completion is delayed, you are to submit to me a progress report seven days before that date and justify any request for an extension of time. If completion is further delayed you are to submit monthly reports until the report is completed.

A.G. HOUSTON, AO, AFC
Air Chief Marshal
Chief of the Defence Force

Appointing Authority

27 September 2007
DEFENCE (INQUIRY) REGULATIONS

CHIEF OF THE DEFENCE FORCE
COMMISSION OF INQUIRY

INSTRUMENT OF APPOINTMENT (AMENDMENT No. 1)

Recitals:
1. Pursuant to regulation 109 of the Defence (Inquiry) Regulations 1985 ('the Regulations'), I, Air Chief Marshal Allan Grant Houston, AO, AFC, Chief of the Defence Force, appointed a Commission of Inquiry on 19 August 2007 constituted by Mr Frank Cullen for the purpose of inquiring into the circumstances surrounding the death of Captain Andrew Pajakka (the Commission).
2. The Commission was originally to be conducted in private.
3. I have decided that future hearings of the Commission will be in public, pursuant to regulation 117 of the Regulations.
4. This instrument is issued to amend the original instrument of appointment and terms of reference issued by me to enable the Commission to conduct any future hearings in public.

Confirmation of Appointment

Pursuant to regulation 109 of the Regulations I confirm the appointment of a Commission of Inquiry constituted by Mr Frank Cullen for the purpose of inquiring into the circumstances surrounding the death of Captain Andrew Pajakka. The Commission is to conduct its inquiry in accordance with this instrument and the terms of reference, which form part of this instrument.

Pursuant to regulation 112 of the Regulations, I confirm the appointment of Mr Cullen as the President of the Commission;

Pursuant to regulation 115 of the Regulations:

(i) I direct the Commission to adopt practices and procedures consistent with the Regulations and which are appropriate and adapted to the expeditious collection of reliable and accurate evidence in the circumstances of the Commission's inquiries;

(ii) I authorize the President to issue Practice Notes in respect of practices and procedures proposed to be adopted in respect of the Commission's inquiries;

(iii) I direct the Commission to submit such reports as may be specified in terms of reference; and

(iv) I direct that Commission records may not be publicly released outside of the Commission's hearings other than in accordance with Regulation 63 of the Regulations.

Pursuant to regulations 119 of the Regulations, I direct that all oral evidence to be given before the Commission shall be on oath or affirmation.
Pursuant to regulation 51 of the Regulations, I appoint Squadron Leader James Gibson, a legal practitioner, as Counsel Assisting the Commission.

A.G. HOUSTON, AO, AFC
Air Chief Marshal
Chief of the Defence Force
Appointing Authority
15 January 2008
DEFENCE (INQUIRY) REGULATIONS

CHIEF OF THE DEFENCE FORCE
COMMISSION OF INQUIRY

TERMS OF REFERENCE (AMENDMENT No.1)

Introduction

1. Pursuant to the amended and reissued Instrument of Appointment of 15 January 2008, the Commission of Inquiry is to inquire into the circumstances surrounding the death of Captain (CAPT) Andrew Paljakka.

2. Commission members, secretariat staff, counsels assisting, counsels representing and other support staff are to refrain from conduct and interaction that raises reasonable doubts as to the impartiality or fairness of the inquiry process.

Background

3. I am advised that on 26 Feb 07 CAPT Paljakka was found dead at the Kings Cross, NSW. There are indications suggesting that he took his own life.

4. CAPT Paljakka was a member of the Australian Regular Army when he died. I am advised that preliminary information indicates that his death may have arisen out of, or in the course of, his service in the Army. Accordingly, I have decided to appoint a Commission of Inquiry pursuant to Part 8 the Defence (Inquiry) Regulations 1985.

Inquiry Task

5. The Commission of Inquiry is to obtain evidence and to provide me with a report detailing, with reasons, the findings of the Commission as to:

a. the circumstances surrounding the death of CAPT Paljakka 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. whether CAPT Paljakka killed a person or witnessed the sexual assault of a child during a deployment to Afghanistan, or reported any such events to a person or persons within Defence, and if so reported, how any such incidents or reports were dealt with by the ADF;

c. the sufficiency of any Defence actions and decisions materially relevant to CAPT Paljakka’s death, both prior and subsequent thereto.
d. any weaknesses or deficiencies (isolated or systemic) in Defence systems, policies, equipment, practices, procedures and training associated with CAPT Paljakka’s death.

6. The findings and recommendations of the Commission may be used by me:

   a. primarily as the basis for appropriate remedial action in respect of any weaknesses or deficiencies (isolated or systemic) in Defence systems, policies, practices, equipment, procedures and training as may be identified in the Commission’s report; and

   b. also to inform, subject to Regulation 63, CAPT Paljakka’s next-of-kin and other family about the circumstances surrounding his death.

Recommendations

7. Without limiting the scope provided for by Regulation 110, I am particularly interested in considering recommendations regarding actions that the Commission believes should be taken with respect to any weaknesses or deficiencies (isolated or systemic) in Defence systems, practices, policies, procedures and training associated with the death of CAPT Paljakka.

8. Recommendations should be clear, reasoned, succinct, measurable and achievable. The Commission is authorized and encouraged to consult widely regarding recommendations that it proposes to make in its report.

9. Pursuant to Regulation 110, recommendations should be explicitly linked to findings made in the Commission’s report. For clarity and convenience, recommendations should be published in a table format containing the following detail for each recommendation:

   a. the finding(s) to which it relates; and

   b. the relevant paragraph(s)/page(s) reference within the report where the related finding(s) is contained.

Interim reports and monitoring

10. Inquiry Plan. Following completion of Inquiry Planning (and further to CDF Directive 12/2006), the Commission is to provide me with an Inquiry Plan. The Inquiry Plan should build upon the initial Scoping Plan and is intended to provide me with indications of the likely complexity and duration of the Inquiry, as well as resource implications, for which I retain ultimate responsibility. The Inquiry Plan should address the matters listed in paragraph 7.14 of ADFP 06.1.4—Administrative Inquiries Manual.

11. Monthly Progress reports. During the course of the Inquiry, the President is to provide me with a written update on the last working day of each month informing me of progress made against the Inquiry Plan, these Terms of Reference, and other matters of significance to the President.

12. Other reports. The President is to provide me with reports on matters he believes require my urgent attention or action. Such issues might include significant matters affecting the conduct of the Commission’s inquiries, Defence safety, security, operational effectiveness
or the welfare and wellbeing of ADF members, Defence employees, or persons otherwise potentially affected by the Commission of Inquiry.

Documentation

13. In addition to the requirements of sub-regulation 123(5), the following are to accompany the Commission’s report:

a. imagery of articles (other than documents) tendered as exhibits before the Commission and a record of the location of those articles;

b. notices sent to, and any responses from, individuals against whom it is contemplated adverse findings may be made (unless the Commission believe that doing so would be unfairly prejudicial to the interests of a person sent such a notice);

c. any external legal advice obtained by the Commission (such advice is to be handled in such a way as to maintain any client legal privilege which attaches to that advice);

d. these Terms of Reference;

e. the instrument of Appointment;

f. any written communications between the Commission and the Appointing Authority;

g. a succinct executive summary of the report;

Representation of affected persons

14. Where the President of the Commission determines that a person may be affected by the Inquiry pursuant to Regulation 121, arrangements for the representation of that person by a particular ADF Legal Officer will be made by the Director of Defence Counsel Services (DDCS). Accordingly, the President will notify DDCS of any person that may be affected.

15. Where the President of the Commission determines that the record or reputation of a person who has died may be affected by the Inquiry pursuant to Regulation 121, arrangements for the legal representation of a single representative of the deceased will be made by the DDCS. Accordingly, the President will notify DDCS whether the record or reputation of the deceased may be affected and who the single representative of the deceased is.

No findings of criminal/disciplinary offences

16. The Commission is not to conclude or find that a disciplinary or criminal offence has been committed by any person. Nor is it to use the language of the criminal law when describing particular conduct or behaviour. If during the course of the inquiry the view is formed by the President that a person is likely to have committed a serious criminal or serious disciplinary offence, such offences shall be reported to the Provost Marshal of the Australian Defence Force, and also notified to me, as soon as it is practicable to do so. Care needs to be
taken to ensure that continuing with the Commission does not unduly prejudice any criminal or disciplinary investigation.

Public inquiry

17. In accordance with Regulation 117 of the Regulations, I direct that the Commission shall conduct its inquiry in public in respect of the taking of evidence and the making of submissions, subject to the following qualifications;

a. the Commission shall not conduct in public such parts of its inquiry that involves the disclosure of security classified information; and

b. only:

i. persons holding an appropriate security clearance and who have a need to know the information; or

ii. with respect to information classified up to and including SECRET, persons who, in the opinion of the President, are immediate family members or close friends of CAPT Paljakka, but only where such persons are made subject to a direction issued by the President under Regulation 62 prohibiting absolutely disclosure of security classified information from that part of the Inquiry;

may be permitted by the President to attend that part of the Commission or have access to the information disclosed therein.

Security

18. Security briefings and undertakings. Any direction referred to in paragraph 17(b)(ii) is to be reinforced by protective security briefings to family members and close friends of the deceased. Where appropriate, the President may require such persons to sign an undertaking that they will protect information that they receive during Commission hearings.

19. Security Liaison Officer (SLO). There is a potential for operational security issues to arise during the course of this inquiry. A SLO may be provided to advise on issues of security to the Commission, counsels assisting and representing, and the Administrative Support Team. The Commission and counsel assisting should liaise closely with any SLO when conducting scoping and planning for this inquiry.

20. Security classified information. If the Commission has cause to question the security classification attributed by Defence to information gathered or presented to it, then it is, in the first instance, to seek advice from an SLO, if appointed. If the Commission is not satisfied with such advice, then the matter is to be referred to me for determination regarding the appropriate security classification.
Report

21. The Commission's report is sought by 30 Apr 08. If completion is delayed, the Commission is to submit to me a progress report seven days before that date and justify any request for an extension of time. If completion is further delayed the Commission is to submit monthly reports until the final report is completed.

A.G. HOUSTON, AO, AFC
Air Chief Marshal
Chief of the Defence Force

Appointing Authority

\(\underline{5}\) January 2008