



DEFENCE (INQUIRY) REGULATIONS

**REPORT OF THE COMMISSION OF
INQUIRY INTO THE DEATH OF
PRIVATE BENJAMIN EDWARD PAPE**

JULY 2010



**CDF Inquiry into the death of
Private Benjamin Edward Pape**

Air Chief Marshal A.G. Houston, AC, AFC
Chief of the Defence Force
R1-5-B CDF SUITE
Russell Offices
CANBERRA ACT 2600

Dear Air Chief Marshal,

On 23rd January, 2010, by Instrument of Appointment, you appointed me President of a Commission of Inquiry for the purpose of inquiring into the death of Private Benjamin Edward Pape.

I now have the honour to present the Report of the Commission of Inquiry.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'D.A. McCann'.

D.A. McCann
President

21st July 2010

REPORT OF THE COMMISSION OF INQUIRY

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- A. Transcript
- B. Exhibits
- C. Documents required to accompany report, pursuant to Paragraph 11 of Terms of Reference
 - (a) Orders or Publications referred to in this report
See Exhibits 42, 43, 52, 54, 56, 65, 73, 74
 - (b) Imagery of articles other than documents.
Not applicable
 - (c) Notice sent to Potentially Affected Persons
See Exhibit 76
 - (d) Any external advice obtained
Not applicable
 - (e) Instrument of Appointment and Terms of Reference
See Exhibits 1 and 2
 - (f) Any written communication between COI and Appointing authority
Reports are Annexure D
 - (g) Executive Summary of the Report
See this Report
- D. Interim Monthly Reports

EXECUTIVE SUMMARY

1. PTE Benjamin Edward Pape who was a member of 1 RAR died at Unit 11, Baidoa Court Lavarack Barracks on Friday 5th September, 2008, as a result of hanging.
2. Early in his recruit training PTE Pape had difficulty in adapting to a military lifestyle. An incident occurred as a result of which he was assessed and a recommendation was made by a psychologist that he be discharged from the Army. The psychologist expressed the view that he was emotionally vulnerable. The recommendation was not upheld and he was given the chance to re-commence his recruit training which he successfully completed.
3. During his Initial Employment Training he came to the attention of Command as a result of his father expressing concern for his welfare. Pape was counselled by an Army Chaplain in respect of family issues.
4. Upon marching into 6 Platoon B COY, 1 RAR the Platoon Commander identified PTE Pape as a very young inexperienced soldier who needed mentoring support. This support was provided by the Platoon Commander and the Section Commanders.
5. PTE Pape was counselled from time to time by the Unit Chaplain and by a locum Chaplain.
6. Soldiers, who were close friends, and his girlfriend, did not observe any indication that he might take his own life.
7. Shortly after marching into 1 RAR PTE Pape suffered a lower limb injury which progressed so that his medical status was reduced from MEC1 to MEC301.

8. He received medical attention, physiotherapy and medication for his condition and he was transferred to the rehabilitation platoon of 1 RAR in order to enable him to recover from his injury.
9. Having spent a social evening with his girlfriend and another couple he returned to his unit in the early hours of Friday, 5th September, 2008. It appears that he suddenly formed the intention to take his own life. After inflicting a laceration to his upper left arm, he hung himself in his unit.
10. The immediate circumstances surrounding the death have been established to a satisfactory degree of certainty.
11. Following his lower limb injury he received appropriate treatment and supervision from a medical point of view. It is not considered that the process of rehabilitation, which was of short duration in the period before his death, contributed to his death.
12. So far as the sufficiency of the actions taken immediately subsequent to the death is concerned, the Commission of Inquiry has concluded that, while there was an absence of a prompt and effective investigation of the death, this deficit was the consequence of the procedures then in place in respect of the investigation of the deaths of Defence personnel.
The Commission of Inquiry has accordingly made a recommendation to remedy what is regarded as a substantial deficiency in Defence policies and procedures.
13. On or about the 15th August 2008, an incident involving PTE Pape occurred which might have amounted to suicidal ideation on his part, although he is said to have denied this.
14. The incident was reported to the chain of command.
15. The determination of the sufficiency of the actions taken by Defence personnel prior to the death has been hindered by a conflict in the evidence which has not been resolved.

16. Upon the conflict becoming apparent, it appeared that three persons might be affected by the Inquiry. They were each notified in accordance with the Regulations.
17. There is evidence that, as a result of the incident on or about 14th August, PTE Pape was presented to the Unit Chaplain by a NCO for counselling. The contrary evidence is that the Unit Chaplain did not receive any notice of the incident and PTE Pape was not presented to him.
18. At the conclusion of the Inquiry the Commission was not able to make a determination on the conflict of evidence and consequently has made no adverse comment in respect of any individual.
19. If PTE Pape had been referred through to a mental health professional for risk assessment, the psychological assessment which occurred during Pape's recruit training would have been called up. The consequences of a second risk assessment, if it had occurred, remains a matter of speculation.
20. Following this incident both the NCO and the Chaplain continued to concern themselves with Pape's welfare by speaking with him from time to time. They last spoke with him separately on the day before his death when Pape appeared to be well in himself.
21. PTE Pape continued his duties as a soldier albeit that his injury grew progressively worse. His social life apparently continued normally.
22. The reasons which led to PTE Pape taking his own life cannot be determined with certainty. It is more likely that those reasons do not relate to any actions or decisions taken by Defence personnel.
23. The Commission of Inquiry has concluded that no Defence related factors materially contributed to PTE Pape's death.

FINDINGS OF FACT AND COMMENTARY

1. Early Life and Recruitment

Benjamin Edward Pape was born on 10th April 1988 at [REDACTED]

[REDACTED] He was the third youngest of four children.

His parents separated when he was about 5 years of age. He remained in his mother's care until he was about 12 years of age when his father took over responsibility for the children.

Pape attended [REDACTED] High School and left in year 10 in 2003. It is reported that he had difficulties concentrating as a child and that he was bullied at High School.

He attained a Conservation and Land Management Certificate at [REDACTED] TAFE in 2004 and later completed a Production Horticulture Certificate in 2006. After leaving school he worked in outdoor occupations including those of farm hand and tree planter. Immediately prior to his recruitment he was working as a casual labourer in an abattoir.

Pape applied to join the Australian Army on 18th April 2007. At the recruitment interview he expressed the feeling that he made mistakes in his work and it appeared that he lacked self confidence. In his application he stated that he wanted to join the Australian Defence Force because the Army offered opportunities for him to better himself and to reach his potential.

On 5th June 2007, after the routine interviews and assessments, Pape was offered the opportunity to enlist.

2. Recruit Training

Recruit Pape joined the 1st Recruit Training Battalion at Kapooka on 24th September 2007. He was posted to 36 Platoon on 25th September.

At the conclusion of the first week of training it was reported that he had not reached the standard required for a recruit at that stage and that he had difficulties adapting to the military lifestyle.

On 6th October 2007, an incident occurred. One report was that Pape had suffered a panic attack while doing drill. What appears to have happened was that during weapons training another recruit approached him and asked him how he was going to which Pape replied by cocking his firearm and firing the action, saying "This is how I'm going". Fellow recruits expressed concern at this. The outcome was that he approached his Section Commander saying that he was very stressed about the assessments that he had received in the past few days. He was also concerned about his fellow recruits who had been approaching him, asking if he was alright and saying that he should calm down. He also stated that that he felt angry and aggressive.

His Section Commander responded by saying that he would seek assistance for him. Pape was admitted to the Kapooka Medical Centre where he was seen by a Chaplain. Pape was agitated and distressed over the incident. The Chaplain concluded that he was a troubled young man and referred him for psychological support.

Pape was seen by a Psychologist on 9th October 2007. He reported having difficulties at school and at work. He said that he had left school during year 10 having had problems learning. He attended TAFE where he again had difficulties staying on task.

Pape stated that his fiancée had initially said that she would join him after he completed his training at Kapooka but that she had since changed her mind and intended to stay in Perth.

The psychologist observed that Pape was an anxious young man with a past history of poor functioning. It appeared to the psychologist that he was incapable of making the necessary changes to improve his behaviour. It also appeared that he was emotionally vulnerable and that his motivation had been dealt a blow by his fiancée's decision to remain

in Perth. The psychologist concluded that he was not suited to be a soldier and recommended that he be discharged from the Army.

Pape was discharged from the Kapooka Medical Centre on 10th October 2007 and was transferred from 36 Platoon to the Weary Dunlop Platoon for the purpose of commencing the process of terminating his service in the Army.

On 15th October 2007, a Notice of Termination of Service was issued citing the incident on 6th October, the report of the Chaplain, the psychological assessment and the performance appraisal dated 30th September where it was stated that he had performed poorly and that he had difficulty in adapting to the military lifestyle.

Pape replied in writing to the Notice of Termination. The reply is dated 11th November 2007 but, for whatever reason, this date is clearly wrong.

On 6th November 2007, the Commandant of the Army Recruit Training Centre, who had the delegated responsibility for authorising the discharges of recruits, reviewed the recommendation for discharge and Pape's reply. The Commandant had spoken with the Platoon Commander of the Weary Dunlop Platoon who reported that Pape had performed well during his time in the platoon, he had a good attitude and had impressed in his efforts to fight his discharge and to continue to be a soldier.

The Commandant interviewed Pape. The Commandant took note of his change in behaviour, his performance in the Weary Dunlop Platoon and what appeared to be a genuine resolve to serve as a soldier. The Commandant decided to give him a second chance and to set aside the notice of termination.

The 6th November, 2007 was a Tuesday, the day of the week on which new recruits arrived. Arrangements were made so that at 5 pm on that same day Pape was able to join the new recruits to recommence training.

It appears that Pape had some difficulty in adjusting and his conduct received adverse comment by his Section Commander on two occasions.

However, by 26th November there was a satisfactory report for the previous recent period. It was noted that he was adapting to Army life and that he was an acceptable member of his Section. The view was expressed that "if he continues to apply himself his confidence will improve". It was obvious that he was trying harder.

On the 9th December it was noted that he was progressing steadily, with the qualification that he needed to pay attention to detail.

Pape [REDACTED] on leave from 22nd December 2007 to 2nd January 2008. It appears that he spent his leave with his brother [REDACTED]

On 6th January, 2008 he received a poor report. It was stated that he had been slow to adjust after Christmas leave. However following that report it was noted that he had improved immensely.

By 6th February 2008 Pape was noted to be an eager and enthusiastic member of his Section who could be relied upon - "Overall a very good performance".

On 8th February 2008 a report was made on his recruit training for the period 6th November 2007 to 8th February 2008. While he had been slow to adapt to Army life, he had approached the course with a positive attitude. He had developed good soldierly qualities; he related well to his peers and instructors; he made a noticeable improvement in team performance. It was concluded that he had reached a very good standard as a recruit.

3. Infantry Training

Upon completing his recruit training at Kapooka, Pte Pape was posted to the School of Infantry.

On the 18th February, 2008 Pape was sent to commence his Initial Employment Training at Townsville. He was accommodated in 1 RAR transit lines for the period of the course.

On 25th February 2008 he commenced his training with Solace Platoon. That training was conducted by members of 1 RAR. His Section Commander reported that he had settled in satisfactorily, however he noted that Pape had to step up his skills.

During the period 25th February to 29th February, Pape worked to satisfactory standard and was making progress.

Pape was granted compassionate leave from 7th to 11th March 2008 to visit his paternal grandmother in Western Australia, who was seriously ill.

During the period 25th February to 11th April, 2008, it was reported that Pape was progressing to reach a satisfactory standard.

Pape completed his Initial Employment Training and on 12th June 2008 he was posted to C Company of 1 RAR. On 20th June he moved from transit lines to permanent accommodation in Baidoa Court. On 21st July, Pape was transferred from C Company to 6 Platoon of B Company, 1 RAR.

On his arrival in B Platoon, Pape was interviewed by the Platoon Commander, LT Ryan James Sharp. Pape gave the impression that he was nervous and unsettled. LT Sharp made informal enquiries and learnt that Pape had received Padre or psychological support during his time as a recruit.

LT Sharp informed the Officer Commanding of B COY, MAJ Anthony Birch, of his concern over Pape and MAJ Birch instructed LT Sharp to keep Pape under notice. The conclusion was that Pape was a very young inexperienced soldier who needed to have mentoring support.

4. Pape Senior Contacts 1 RAR

On or about 23rd April, 2008, Pape's father had telephoned the Guard Room of 1 RAR and he was put through to the then CAPT Christopher Michael Rohan, the Adjutant of 1 RAR. The substance of the conversation was that Pape Senior was concerned for the welfare of his

son, that his son had left the Church which he had previously attended, had left his father's house to live with his brothers and had joined the Army shortly thereafter.

MAJ Rohan said in evidence that he had tried to reassure Pape Senior and undertook to contact the Unit Padre to ask him to speak with the son.

Rohan spoke with Chaplain Matthew Ivan Vesely who arranged to meet with Pape who was at this time undergoing his Initial Employment Training in the field in the High Range Training Area outside Townsville.

Chaplain Vesely travelled to the Training Area on 24th April 2008. He had a conversation in private with Pape. Pape explained that he had separated from the Church which he had previously attended and in doing so he had become alienated from his father, who was deeply involved in the church, and from his friends in the church. He went on to say that he was looking forward to a new life in the Army.

Chaplain Vesely subsequently spoke by telephone to Pape Senior at Pape's request. Vesely thereafter counselled Pape following his return from attending the funeral of his paternal grandmother and spoke to him from time to time to assess Pape's wellbeing. He last spoke with Pape on the afternoon of Thursday, 4th September 2008, when all appeared to be well.

5. Relationship with a Young Woman

Pape had struck up a relationship with a young woman over the internet in about August 2007. They actually met in person on 14th February 2008 when he was posted to Townsville. As was appropriate for that day he gave her a rose when they met.

The two young people formed a close relationship which continued, with an interruption between April and July, until his death in September, 2008.

The young woman was aware that he had been upset over the death of his grandmother. She was also aware that he had personally fallen out with his father but that he was close to the rest of his family. She was also aware that he had been placed in rehabilitation because of fractures in his shins which meant that he would not be deployed. She said that he was really upset because he wasn't able to go overseas.

6. History of Injury

It appears that Pape had a history of apparently minor lower limb injury following his enlistment.

On 15th November 2007 he rolled his right ankle during recruit training but suffered no fractures upon examination. Pape injured his right ankle during training on 17th January, 2008. He aggravated the injury on 21st January when he rolled his ankle during a night navigation exercise. He presented at the Kapooka Medical Centre that same evening.

The ankle was still sore on 23rd January but by 29th January it appears that he had recovered and received his final physiotherapy treatment on that date.

It does not appear that Pape suffered any other injuries until 23rd June, 2008, when Pape complained of pain in his right knee which had arisen after running one week previously. He was seen by Dr. Gupta, a civilian medical practitioner who was contracted to provide medical services at Lavarack Medical Centre. Dr. Gupta found that there was no evidence of ligament or other injury and ordered that he have restricted duty until 30th June.

Pape next presented on 23rd July with pain in both shins after running that morning. He was classified as unfit for duty until 25th July 2008.

On 28th July he was seen again. He reported pain in both his shins. A bone scan for both legs was ordered and he was to receive physiotherapy. A bone scan on 29th July confirmed that there was severe medial tibial stress syndrome of both tibias reaching the level of stress fracture on the right.

These continuing medical problems culminated on 13th August when Dr. Gupta made a recommendation that Pape's Medical Employment Classification (MEC) be downgraded from MEC 1 to MEC 301 on the basis that Pape was "medically unfit for field, deployment in the mid term". On 18th August the Senior Medical Officer endorsed this recommendation.

On 26th August, 2008, Pape was transferred from 6 Platoon, B Company to Coral Platoon. It appears Pape had previously believed that he was to be sent overseas on a training exercise but, of course, he was no longer eligible because of his ongoing injury.

Pape had been receiving physiotherapy as part of his treatment. On 3rd September a physiotherapist referred Pape to Dr. Gupta, reporting that Pape had received physiotherapy since 18th August but that the pain had not decreased and that he had sleeping problems because of his right shin pain.

Dr. Gupta reviewed Pape on the same day. Pape was experiencing shin pain "even while sitting" and had disturbed sleep. Dr. Gupta prescribed Mobilis, a nonsteroidal anti-inflammatory medication, to relieve the pain. Dr. Gupta noted that Pape was due to get orthotics from the podiatrist two days later.

7. The Evening of Thursday 4th/Friday 5th September 2008

PTE Matthew James Hassall had known Pape for some eight months prior to his death. They had undergone Initial Employment Training at Townsville at the same time.

Pape had asked Hassall to join him on Thursday, 4th September to have drinks and dinner with him, his girlfriend and another young woman. At about 5:30pm Pape and Hassall left 1 RAR Barracks in a taxi. They met the two young women and they had drinks and a meal at Tom's Tavern in Townsville.

The group then went to a bar at James Cook University and later went to the Criterion Tavern.

Hassall left the group at about midnight. He returned to Lavarack Barracks. He went to Pape's room, having already arranged to borrow an iron and ironing board from Pape. As he was leaving with the iron and ironing board he saw Pape arrive in a taxi. They exchanged greetings - "see you tomorrow" or words to that effect. It is Hassall's recollection that Pape appeared no more than mildly intoxicated by alcohol.

The girlfriend stated that she parted from Pape at about 12:15am when Pape took a taxi to return to the Barracks. They had arranged to have dinner by themselves on that Friday night.

Pape was seen by fellow soldiers, PTE Todd Crossin and PTE Phillip John Harrison on that evening at the Criterion Tavern. Pape gave the appearance of enjoying himself in the company of his friends.

PTE Jarrod Michael Louden and PTE Samuel Alexander Frood also went into town on that evening, 4th September, with some fellow soldiers. Louden remembers seeing Pape at the Criterion Tavern with some females and assumed that they were Pape's civilian friends. They appeared to be in good spirits.

Louden and Frood had consumed a significant amount of alcohol while in Townsville. On returning to the Barracks they went to Frood's unit where they consumed more beer.

Frood's unit was situated on the floor below that of Pape and positioned next door to the unit directly below that of Pape. In the early hours of the morning of Friday, 5th September, they were drinking on the rear balcony of Frood's unit.

Frood heard someone come out onto the balcony of Pape's unit. Frood heard loud distorted headphone music from above and called out for the music to be turned down. A little later a noise was heard from above which Frood described as a "thud and vibration of metal" It was quite loud and Frood again called out to stop making so much noise. Frood received no response to his calls.

Louden heard music from Pape's room and also heard a sound as if someone had kicked the railing surrounding the balcony of Pape's unit.

Both Frood and Loudon had consumed alcohol to excess and the time of this incident remains uncertain.

Frood fell asleep in a hammock on his balcony. Loudon returned to his own unit.

Baidoa Court consists of two accommodation blocks. Each block consists of ground floor accommodation and two upper floors. Each block contains 18 single ensuite units. Access to the first and second floors is gained by three metal staircases which lead to open landings giving access to two units at each level.

Each unit is similar in design. A single sliding glass door gives access to the unit from the open landing. Each unit has fitted wardrobes and cupboards, with a kitchen embedded within the cupboards. A shower and toilet is entered from a door off the main room.

On the far side of the room, opposite the front door, there is another sliding door giving access to a balcony which has a roof. The balcony has a meter high metal balustrade on the three outer edges. Wooden screens on either side of the balcony inhibit the view to the next balcony. Pape occupied Unit 11 which was located on the top floor of the block.

Hassall arose at about 6.15 am on the morning of Friday, 5th September. He completed his ironing and then went to Pape's room to return the iron and ironing board. The front door of the unit, which opened from the open landing, was closed. He opened the door and entered. He placed the iron and ironing board down. Pape was not in the room. Hassall then checked the balcony at the rear of the unit. He pulled back the curtain and opened the door. He then saw that Pape was hanging from a rafter by his service toggle rope. He was in a kneeling position dressed in his underpants. There were ear buds in place leading to an iPod which was tucked into his underpants. Hassall could hear loud music. There was a small pedestal table and two chairs on the balcony.

From the position of the body Hassall assumed that Pape was dead. Hassall immediately went to Unit 12 next door where PTE Christopher Nelson lived and called Nelson saying "Something's happened to Ben. Can you come see what's going on."

The two men returned to Unit 11 and looked out on to the balcony. Both men were shocked by what they saw. After some moments Nelson used his mobile phone to call the Guard Room and reported what they had found.

8. The Aftermath of the Discovery of the Body

SGT Craig David Rienets was the Duty Officer for 1 RAR on the morning of Friday 5th September. Rienets has since been promoted to Warrant Officer Class Two.

At about 6.30am he was in his office in the Guard Room filling out his log for the previous night when the Guard Commander called out "A soldier has been found hanging in his accommodation in Baidoa Court." Chaplain Vesely, Chaplain of 1 RAR, had come to the Guard Room to collect his keys and had heard the report. He turned to Rienets saying "I have a car. Let's go."

The Chaplain and Rienets drove to Baidoa Court without delay where they were met by Hassall and Nelson. The Chaplain and Rienets went into Unit 11. The door was open and the Chaplain and Rienets entered the room and moved to the balcony where they saw Pape hanging from the rafter.

The Chaplain felt for a pulse and found none. The body was cold, rigor mortis had set in the hands, discolouration of the skin indicated that blood had settled in the lower parts of the body. The Chaplain concluded that Pape was dead.

The Chaplain and Rienets left the unit and closed the door. Rienets stood at the top of the stairs to the top floor to restrict entry to that area. He then used a mobile phone to call the Military Police Duty Officer and then the Assistant Adjutant of 1 RAR to report the death at about 6.35am. He also phoned the RSM.

In the meantime the Chaplain spoke to Hassell and Nelson who were clearly upset by the incident.

Rieniets told the two privates to remain in Unit 12 and not to discuss the matter, and to await the arrival of other authorities.

Soldiers were at this time waking up and getting ready for work. Rieniets moved through Baidoa Court saying to the occupants that an incident had occurred and that they should move to work forthwith.

Military Police arrived at about 7.30am and Rieniets told them of the finding of the body, that Hassall and Nelson had been isolated in Nelson's unit and that no one else had entered the room.

WO1 Peter George Marsh, the RSM of 1 RAR, had arrived shortly after this time. He went to Unit 11 and viewed the scene. He then commenced to secure the area surrounding Baidoa Court.

The Military Police cordoned off Baidoa Court including the footpath which ran behind the block and from which Pape's balcony could be observed.

SGT Steven Owen Davies, a member of the Royal Australian Corps of Military Police and an investigator with the Australian Defence Force Investigative Service, had received a phone call at 6.46am while at his home from the RSM, informing him that a soldier from the Unit had been found hanging.

At about 6.50am Davies phoned the Duty Officer of 1 RAR who informed him of the incident and the circumstances of the finding of the body. At about 6.55am Davies received a phone call from the Duty Officer of the Military Police Post seeking to inform him of the death. As he already had knowledge of the matter, Davies asked that members of the Military Police Platoon attend the scene to assist with the security of the scene.

Davies phoned SGT Anthony Buckingham, his supervisor in the ADFIS Unit. He briefed Buckingham and asked Buckingham to report to the ADFIS chain of command.

Davies arrived at Baidoa Court at about 7.30am, the same time as the arrival of the Military Police.

Davies spoke with Rieniets, with Chaplin Vesely and with the RSM. The Chaplain told Davies that he knew Pape personally. Davies entered Unit 11 at about 7.33am and then examined the body of Pape on the balcony. It was clear that Pape was dead. Davies left Unit 11 and then spoke with Hassall and Nelson.

Davies then phoned his superior, Buckingham and reported on his actions. Buckingham told him that this was a matter for the Queensland Police Service and that Davies was not to investigate the death. Davies queried this instruction and was told "That's the way it is". He was instructed to do no more than ensure that the scene was secure and to await the arrival of the civilian police.

At about 8.10am members of the Queensland Police Service arrived and carried out an investigation of the scene. Davies remained and assisted the civilian police where necessary.

A document was found on a table next to the front door of the Unit. This document appeared to be a form of Will signed by Pape and dated 3rd September 2008.

A mobile phone was found on the desk. The first dialled number displayed showed the name "kristy d 5.9.2008 12.33am". This display is confirmation of the evidence of his girlfriend that she and Pape texted each other shortly after midnight to say "good night". This is the last time that it has been established that Pape was alive.

A kitchen knife with what appeared to be blood stains was found in the hand basin in the bathroom. A small laceration was also seen on the upper left arm of Pape's body.

A notebook was found in a bedside drawer. In this notebook was an entry dated April 2008. In this entry it appears that Pape speaks of himself as suffering from depression arising out of the breakup of a relationship in the past.

It should be noted that Photograph Image No. 0012 which is part of Exhibit 38, does not accurately portray the scene. This notebook appears on the top of the desk opened at the

April entry whereas the notebook was taken from the desk drawer after Pape's body was found.

The civilian investigating officer concluded that there were no suspicious circumstances and later made a report to the Coroner in those terms. The Coroner concluded his inquiry into the death without holding an Inquest, finding that the cause of death was hanging and that the manner of death was suicide.

The post mortem examination conducted under the authority of the Coroner revealed that the blood alcohol level of Pape at the time of his death was 0.05%. No illicit drugs were detected.

In those cases where civilian police investigate an unexpected death, it is necessary for the body to be identified, one of the principal concerns of the Coroner. Davies was aware of this, and to this end, he arranged for Chaplain Vesely to return to Baidoa Court. Chaplain Vesely was accompanied on his return by CPL Boyé for the purpose of formally identifying the body as that of Benjamin Edward Pape.

Davies obtained Boyé's particulars of identity and status, and at this time Boyé told Davies that approximately three or four weeks previously he had heard Pape say that he had wanted to shoot himself.

9. Notification of Death to the Family

It is important that the death of a member of the Defence Force should be reported to his/her family in a timely and sensitive manner. There are a number of Defence Instructions which have been issued to achieve this end, namely DI (G) PERS 20-6, Death of Australian Defence Force Personnel and DI(G) PERS 11-2, Notifications of Australian Defence Force and non-Australian Defence Force Casualties.

Members of the Defence Force are asked to nominate two Primary Emergency Contacts (PEC). The Defence Force has established a structure of notification teams, comprising

appropriately skilled and trained personnel who will undertake the task of notifying the Primary Emergency Contact. The team will, if possible, include an ADF Chaplain of the same religious denomination as the deceased member. The wishes of the member in nominating the Primary Emergency Contact will be respected when the Notification Team commences the process of notification. However the Defence Force also has an obligation to notify the next-of-kin of the death so that the family of the member are also informed.

The Defence Community Organization has the role of supporting members of the Defence Force and their family in times of stress, particularly upon death of a member. The Defence Community Organisation will support the Notification Team as appropriate and provide follow up support to the family of the deceased member.

It is important that the Primary Emergency Contact and the family are advised of the death as quickly as possible. Often the event of a death will generate publicity which will be circulated quickly by the media.

It is equally important that the information provided by the Notification Team is accurate. Mis-information will cause great distress to family members.

Deaths within Australia which arise by the way of non-natural causes, or where the cause of death is not known, are subject to the jurisdiction of the civil authorities represented by the Coroner. All the States and the Territories have legislation which requires that such deaths are reported without delay.

In practical terms, the civilian police act on behalf of the Coroner in receiving the initial report of the death, and commence an investigation on behalf of the Coroner into the circumstances of the death. It is of importance that the deceased person is identified, not only because it may have ramifications in the ongoing investigation of the death, but because the family of the deceased need to be informed of the death.

In events involving multiple deaths, or where injuries impede ready visual identification, great care has to be taken in establishing the identity.

Identification occurs at two levels. The first is when the civilian police arrange for the deceased person to be identified by another person who has known the deceased during life. The civilian police forces throughout Australia have similar, but not necessarily the same, administrative rules as to who will identify the deceased person and under what circumstances.

The second level of identification is when the Coroner formally accepts the identification put forward by the civilian police.

The first level may often be achieved on the day of the discovery of the body. The second level may be achieved only after considerable time, often weeks if not months. The notification imperative borne by Defence therefore requires the closest possible liaison to be established between the local Unit and the civilian police involved in the investigation of the death.

A further complication is that the civilian police, as part of their own established procedures, have a duty to notify the next of kin of the deceased of the death. This results in the notification process being undertaken by two separate and different organisations. This is a further reason for close liaison between the civil and the military authorities.

In the case of the death of Benjamin Edward Pape, there were further complicating factors impeding the notification process and the support of the family by Defence Community Organisation.

Pape died in Townsville in the State of Queensland whereas the Primary Emergency Contact, a brother of Pape, lived [REDACTED] and the father and mother lived in separate locations, and at some distance [REDACTED]

In addition, the normal resources available to Defence at the relevant time were taken up by the need to provide multiple Notification Teams and Defence Community Organisation personnel [REDACTED] in respect of another event which had occurred overseas.

MAJ Josephine Lee Richards-Bell was the Primary Staff Officer for HQ 3 Bde on 5th September, 2008. Her role was to keep the Brigade Commander and HQ 1 DIV informed of the situation as it developed, to ensure the correct procedures were followed and reports were made, and to provide liaison with other units and agencies, including the Defence Community Organisation. Despite the difficulties of communication MAJ Richards-Bell carried out her duties appropriately.

COL Jeffrey Martin Quirk was the Director of Coordination Army at this time. One of his responsibilities was to control and direct staff actions associated with the notification of Primary Emergency Contacts and the next of kin of deceased by Army personnel.

Because of the difficulties outlined above he intervened to ensure that the notification was promptly carried out.

It appears that local civilian police advised the Primary Emergency Contact at 5.0pm on 5th September and that notification by a member of the Defence Force took place at 6.0pm

The Defence Community Organisation in Townsville undertook the responsibility of providing support to Pape's family and a grief support team left Townsville to travel to [REDACTED] within 24 hours of the death.

10. Rehabilitation of Injured Soldiers

The ability of the Australian Defence Force to conduct Operations is based in part on the individual readiness of the members of the Australian Defence Force. Medical fitness is one of the components of individual fitness.

The Australian Defence Force Medical Employment Classification system at the relevant time was contained in Defence Instructions (General) PERS 16-15, issued on 7th August 2008. The Instruction provides broad guidance on the appropriate use of the system.

Initially, on his posting to 1 RAR, Pape was classified as MEC1, that is, medically fit for employment in a deployed environment without restriction.

On 13th August 2008, because of his lower limb injury a recommendation was made that classification should be changed to MEC301, that is, he was considered to be medically unfit for duties in a deployed environment.

The Instruction requires that a member such as Pape should be medically managed towards recovery and should receive active medical management and rehabilitation with the intention of regaining MEC1 within 12 months {DI (G) PERS 16-15 paragraph 17 (c)}.

An Australian Defence Force Rehabilitation Program had been established in 2006 (DI (G) PERS 16-22).

The purpose of the Program is to provide occupational rehabilitation services using a case management model in association with clinical treatment delivered by Defence Health Services. The program is aimed at ensuring that all injured or ill Defence members receive high quality, timely and well coordinated clinical and occupational rehabilitation.

The Instruction, at paragraph 13, sets out the roles and responsibilities relevant to the Program.

The Service Chiefs are responsible for the prevention and management of work related injury and illness. The Occupational, Health, Safety and Compensation Branch is to develop and implement strategic and policy frameworks including evaluating performance to this end. The Defence Health Services Division implements and maintains standards and procedures for service delivery.

While the Program is strong on principle it remained for the Surgeon General of the ADF to issue a directive on the procedures for the delivery of the Program. The Commission has before it the Directive No 290 dated 11th December 2008. The Directive sets out aims and policies. In Paragraph 8 dealing with Definitions, subparagraph 1 (4) declares that a Rehabilitation Program may include, among many features, clinical services, aids and appliances, physical training, physiotherapy and occupational therapy.

While there are references to Rehabilitation Coordinators, Case Managers and Liaison Officers, what is not clear is who is actually responsible for ensuring that adequate resources, including medical practitioners, physical training instructors, physiotherapists and occupational therapists and counsellors are available at the Unit level to support the Program for individual members.

The Instruction, at paragraph 14, states that the Defence Occupational Health and Safety Committee is responsible for monitoring performance of the Program. One might reasonably believe that this would include investigating what was happening at the Unit level and what resources were available in practical terms to aid injured soldiers.

There is evidence that 1 RAR was subject to a number of external inspections and audits in 2008 which identified that there was much to do to make good the deficiencies resulting from some years of operational commitments. The Commanding Officer of 1 RAR made it his particular concern to explain the rehabilitation system then in place in his Unit at the time of the Occupational Health and Safety audit, but it appears that his effort attracted little response.

11. Coral Platoon

A rehabilitation unit had been established within 1 RAR in 1999 and was identified by the name of Coral Platoon. Coral was the name which had been given to a Fire Support Base during the Vietnam campaign and at which the 1 RAR fought with distinction in May 1968. Those soldiers who were unable to fulfil their duties due to medical restrictions were posted from their sub-unit within the Battalion to Coral Platoon. This enabled the Commanding Officer of 1 RAR to determine the actual number of soldiers whom he had under his command and who were ready to deploy at short notice.

Those soldiers who were posted to Coral Platoon were to receive a regime of treatment for their condition without re-injuring themselves, which might have been the outcome had they engaged in the normal activities of the Battalion.

The focus of the Platoon staff was to ensure that the soldiers actively participated in their rehabilitation, including attending all medical appointments and complying with their individual physical training programs.

In earlier times Coral Platoon was supported by only one Regimental Medical Officer, no physical training instructor and no physiotherapist. By 2007 the situation had improved with a larger Regimental Aid Post, two medical practitioners (one military and one a civilian) two physical training instructors and a physiotherapist soon to be appointed.

On the other hand 1 RAR had been subjected to a high operational tempo with short notice deployments to the Solomon Island, Timor and Tonga in 2006 and further deployment to Afghanistan, Iraq and East Timor in 2007.

In February 2008 1 RAR was required to assume Ready Battalion Group status.

There is evidence that the number of soldiers in Coral platoon in 2008 exceeded 100 for several months, many suffering physical or psychological injuries resulting from their activities over the past 3 years.

The Commanding Officer of 1 RAR, together with the Regimental Medical Officer and the Regimental Sergeant Major sought to reinvigorate the concept of rehabilitation in Coral Platoon.

However, there was no establishment of personnel who were allocated to staff the Platoon. The actual staff were drawn from positions within the Battalion. There was no officer available to command the Platoon. A sergeant who was nominally a platoon sergeant infantry operations acted as Platoon Commander.

Stigma associated with Rehabilitation Platoons was the subject of comment by Professor David Dunt in his Review of Mental Health Care in the ADF (see Chapter 12 later).

He reported that mental health remains stigmatized in the ADF, as it does in the general community. He went on to say that on base rehabilitation platoons stigmatize their members and do not constitute rehabilitation as normally understood. He proposed that they should be discontinued.

It should be noted that Professor Dunt's observations were made in the context of mental health in the ADF.

Those soldiers who were questioned on this subject during the Commission's hearings gave their answers in the context of physical injury. They recognised that if an injury was sustained, Coral Platoon was a means of getting back into Battalion life. While it was recognised that stigma might arise if the injury was other than readily observable, the practical causes for concern were an extended length of stay in the Platoon and the loss of the opportunity for deployment.

In 2008, the Commanding Officer of 1 RAR made it his concern to ensure both the members of Coral Platoon, and the rest of the Battalion, understood the positive benefits of the Platoon in returning soldiers to work.

Pape had expressed his disappointment to his girlfriend at being declared medically unfit. But he did not indicate that he was dwelling on this matter when he was spoken to by both Chaplain Vesley and by CPL Boyé on 4th September, the day before his death.

Pape continued to be under medical supervision. He had been given a physical training program at which time he had been spoken to by the Physical Training Instructor. However, the Platoon Commander had not had time to speak with Pape because of the duties arising from supervising the large numbers in the platoon. The question arises as to whether counselling by a trained counsellor would be appropriate at the time when soldiers were initially posted to Coral Platoon.

It is noted that a soldier died at Brisbane on 7th February 2007. His death was the subject of an Inquest conducted by a Coroner in the State of Queensland. The Finding made at

inquest was delivered on 15th October 2009. In that Finding the Coroner stated that the office of the Brisbane Coroner and the Australian Defence Force had co-operated in exchange of information. The Coroner referred to a report prepared by LT COL Dugdale.

It appears that LT COL Dugdale mentioned in her report aspects of the management of long-term injured soldiers in the Australian Regular Army.

LT COL Dugdale is quoted as having expressed the view that there was a lack of dedicated organisational structure, consistent procedures, worthwhile employment and continuity of appropriately qualified unit staff for the management of long-term injured soldiers.

While PTE Pape could not be regarded as falling into the category of "long-term injured soldier", as he had only been a member of Coral Platoon for some 9 days, nevertheless the reference to the lack of dedicated organisational structure and appropriately qualified Unit staff is disquieting.

12. Suicide Awareness and Prevention

Training directed at the prevention of suicides within the Australian Defence Force has been a matter of concern to senior leadership of the Australian Defence Force for some time.

A Mental health Strategy was established in 2002. As part of that strategy a Suicide Prevention Program was set up. This Program has focused largely on increasing the awareness of the possibility of suicide and the provision of basic intervention skills for Defence members.

The Australian Defence Force currently offers three different training packages.

There is a basic 30 minute suicide awareness Power Point presentation. This presentation is usually delivered by a trained Mental Health worker, including chaplains, as was the case at the relevant time in I RAR.

The second level is a three hour Keep Your Mates Safe program which provides more than the basic awareness training and involves case studies, question and answer activities and development of basic intervention skills.

The third level is Applied Intervention Skills Training which is a two day course aimed at developing ability of the participants to intervene in a crisis situation.

The training given at the basic level has been mandatory for all Army members since 2004. Evidence heard at this Inquiry was that this training was part of the annual induction training given at the commencement of each year in I RAR.

The soldiers who were questioned on this point at the Inquiry indicated that they had a basic understanding of the issues to a greater or lesser degree. There was an understanding that if there was anything out of the ordinary with their mate's behaviour, or if anything had been said, the soldier could have a talk and ask if there was anything wrong.

There was an understanding that they could turn to someone for help, to the unit Padre or the chain of command.

It appeared that the more recent arrivals in the Battalion had a clearer understanding. Repetition over the years may have resulted in a lack of attention by the listeners.

The Chaplain gave evidence that in 2010, subsequent to the delivery of the annual basic briefing, a member contacted the Chaplain by phone because of his concern for his mate and as a result the Chaplain and others directly intervened: "somebody did listen to those briefings and acted exactly as we ask".

In October 2008 the Federal Government directed that there should be a Ministerial review of mental health in the Australian Defence Force. Professor David Dunt delivered his report in January 2009 and made 52 recommendations. The Government's response has been to initiate a major mental health reform process.

Professor Dunt remarked on the enthusiasm and commitment of ADF members in delivering the existing programs and that the programs were well received by members.

Based on the limited information gathered by this Commission it may be that Professor Dunt's view is over optimistic. The Commission expresses the hope that suicide awareness training continues to be emphasised by Defence

13. Management of a Suicidal Episode

The policy of the management of a suicidal episode is contained in the Defence Instructions (General) PERS 16 – 26 - Management of a Suicidal Episode in the Australian Defence Force, which was issued on 5 February 2007. The Instruction defines a suicidal episode as including suicidal ideation that is, thinking about and making plans to engage in suicidal behaviour. This may include verbal threats that indicate intent to cause injury.

A suicidal episode may also include non-fatal suicidal behaviours, that is action not resulting in death but where the action might potentially cause death. The Instruction requires that non-fatal suicidal behaviour is to be reported in accordance with DI (G) PERS 11-2 – Notification of Service and Non-Australian Defence Force Casualties - to the chain of command and onwards for a risk assessment by a Mental Health Professional. This procedure ensures that there is a detailed record of the incident.

The Instruction in dealing with suicidal ideation, that is, thoughts and/or threats of suicide with no accompanying suicidal behaviour, states that the "at risk" individual should be presented to a medical officer who is to refer the individual to a Mental Health Professional for assessment. There is no advice given in the Instruction as to the meaning of "presented" nor is there any direction given on the necessity of recording the incident.

The Instruction concludes by saying that all suicidal behaviour must be taken seriously.

However, it is clear that the two situations described above are treated differently. One situation is met with a mandatory response whereas the other situation, suicidal ideation, gives rise to a discretionary response. This interpretation was put to COL Stephanie Elizabeth Hodson, Director of Mental Health for the Australian Defence Force, who agreed,

saying that the context of the spoken thoughts or threats had to be considered. Sometimes words are spoken in jest, at other times the words may well be serious. Nevertheless every statement has to be taken seriously.

Further training which is currently being introduced in suicidal prevention proposes that when a statement indicating the contemplation of suicide is overheard, the hearer should say words to the effect that "I know you may be joking but are you seriously thinking of killing yourself?"

Col Hodson expressed the view, albeit in the context of the sharing of health information, that there is a need, whenever there is an incident involving mental health, that the incident is documented.

14. Reporting of Suicidal Ideation by Non - Health Personnel

While an incident involving suicidal ideation on the part of Pape occurred during his early recruit training, which was dealt with appropriately including recording of the incident, there was evidence given of a later similar event which occurred some three weeks before his death.

This later incident was not recorded and that fact posed significant problems for this Inquiry.

As has been discussed in the previous chapter, instances of non - fatal suicidal behaviour are recorded. The recording of instances of suicidal ideation would enhance the possibility of identifying vulnerable personnel as this procedure would alert the chain of command or health professionals to troubled behaviour which had occurred over a period of time, rather than being confronted with what appears to be a single instance of untoward behaviour.

COL Hodson was consulted in respect of this situation and she responded by raising the prospect of using the system of Quick Assessment (DI(G) ADMIN 67-2).

If a Defence member made a comment amounting to the prospect of taking his/her own life, the peer/supervisor who overheard the comment should ask the question "are you serious". The peer/supervisor then would have to make a decision whether the comment was a joke or whether it raises a level of concern.

If the peer continued to have concerns over the welfare of the member, then the matter should be reported to a supervisor. If the supervisor was initially involved and attained a similar level of concern, the supervisor should document the concerns raised in the form of a Quick Assessment.

Such a procedure would ensure that there was a brief record identifying the facts leading to the supervisor making a record of the decision whether the matter should be referred to a medical officer.

This procedure would result in the action required in an instance of suicidal ideation being consistent with the action required in respect of non - fatal suicidal ideation.

COL Hodson suggested that an Annex to the Instruction dealing with Quick Assessment could give guidelines to the matters which should be documented in the Quick Assessment including the nature and context of the comment overheard and the action taken. Information on referral options could also be included.

COL Hodson also raised the possibility of the Keep your Mate Safe Training being modified to include information on the Quick Assessment process. Additional training could also be given on what is the difference between black humour, or joking about self harm, and actual suicidal ideation.

The Commission is conscious of the fact that if these suggestions were taken up it would impose an increased burden of documentation on a system already suffering.

A judgement would have to be made on the weight of the benefits which would result.

Nevertheless, this Commission does propose to make a Recommendation along the lines outlined above.

15. Mutual Support Amongst Comrades

At the Army Recruit Training Centre at Kapooka recruits were accommodated in three story barrack blocks. Each floor of the barracks held one platoon and the recruits shared four person rooms. This was the start of the process of team building and reliance, with individuals in a group learning to support each other.

Section Commanders and Platoon Sergeants were there to train and discipline recruits and to assist them in their induction into Army life.

Having gone through recruit training and initial employment training Pape and his fellow soldiers who lived on base were accommodated in one man ensuite Units.

A senior non-commissioned officer who gave evidence at this Inquiry expressed the view that, after the mode of accommodation moved away from communal living, soldiers lost their group identity, whereas in the past they had been housed in sections and platoons. It was his evidence that soldiers appeared to rely more on the friendships made during the initial employment training, but these friends did not necessarily find themselves physically grouped together in the barrack blocks and therefore were not immediately available to support each other if the need arose.

The evidence at this Inquiry does indicate that the friendships that Pape had made during IET Training remained significant in his life prior to his death. Pape spent the evening before his death with one of these friends.

The absence of communal living, as was experienced in his recruit training, and as was the norm many years ago in Army life, does not appear to be a relevant factor which contributed to his death.

16. Sharing of Health Information

The information obtained by the Psychologist in his interview with Recruit Pape on 9th October 2007 at the Kapooka Medical Centre was retained within a file marked "psychology in confidence" together with the earlier psychology interview which arose as part of the recruitment process.

This psychological file did not form part of the medical records relating to Pape and was retained within the Directorate of Psychology. It followed that this information was not available to the Regimental Medical Officer nor to Dr. Gupta who were responsible for providing medical services to Pape.

It is noted that an amendment to Defence Instruction (General) PERS 16-20 – Privacy of Health Information in Defence - was issued on 30th July 2008. In the provision of optimal health services to individuals all Defence health practitioners who have a role in the care of the member are to be able to access the entire health record of the member. The definition of Defence health practitioner is cast in very wide terms.

This amendment was referred to in the Review of Mental Health Care in the ADF by Professor Dunt who recommended that the policy to overcome the non sharing of health information as expressed in DI (G) 16-20 paragraph 9 should be implemented. The Federal Government has responded by accepting the recommendation.

COL Hodson, Director of Mental Health in the ADF gave evidence that the process had begun for all mental health issues to be summarized and included in the medical file of the member. This holistic approach can only be of benefit in the provision of health services to Defence personnel.

CAPT Andrew Peter Challen, the Regimental Medical Officer of 1 RAR treated Pape on only one occasion when Pape presented with a chest infection.

In his evidence the RMO pointed out that, while in 1 RAR, Pape came under observation by Defence medical practitioners for physical problems and that there was nothing which

would have drawn a reasonable medical practitioner to look back into any psychological report when dealing with a lower limb injury.

Dr. Gupta gave evidence that Pape appeared to accept the recommendation to down grade his medical classification from MEC1 to MEC301 as part of the process for his rehabilitation. Dr. Gupta went on to say that Pape gave no indication of depression and accordingly, it was not appropriate on his part to explore the possibility of suicide.

The psychological report, referred to above, was not available to Dr. Gupta who said that had it been available to him when treating Pape it would not have influenced him to refer Pape for a further psychological assessment in September 2008.

However, Dr Gupta stated that pain experienced over a long period of time may cause anxiety or a degree of depression. Had the medical treatment provided to Pape not led to an improvement in his condition Dr Gupta said he would have considered the possibility of a psychological component.

The fact that the psychological reports were not included in the medical records for Pape, and thus were not available to the RMO and Dr Gupta, is not considered to be a factor in the events surrounding Pape's death.

Nevertheless, it is possible that, if the incident of which there was evidence of having occurred some 3 to 4 weeks before his death (see later at Chapter 20), had been brought to the attention of the RMO or Dr Gupta, Pape might have been referred to a Mental Health Professional for a comprehensive suicide risk assessment in accordance with the Instructions for the Management of a Suicidal Episode in the ADF (DI(G) PERS 16-26)

17. Observation made by Others of Pape

COL Hodson, , gave evidence that a review had been made of 35 deaths arising from suicide in the ADF. It was her evidence that the risk factors in the ADF were consistent with that of the Australian population of young males.

It appears that persons under stress may not view the situation around themselves from a rational point of view and that the decision to take their own life may be arrived at quite quickly.

When Pape spoke with Chaplain Vesely on 24th April 2008, he spoke of looking for a new life in the Army and that he had made some new friends. This is consistent with the evidence of his girlfriend who said that Pape was enjoying being in the Army and meeting new people.

Pape deeply felt the death of his grandmother, but he had the initiative to ask to speak to a Chaplain and he did so on 26th June 2008.

There is evidence that in August Pape spoke to CPL Boyé of relationship breakup and that he had nowhere else to turn. This may have been in reference to his estrangement from his father. Pape had also referred to the subject of his father when speaking with the Chaplain.

On 26th August SGT Andrew Sowell, Platoon Sergeant of 6 Platoon, was helping Pape march out of 6 Platoon and into Coral Platoon. On this occasion Pape told Sowell that he had broken up with his girlfriend. Sowell asked Pape how he felt about this and Pape replied "I'm okay, it's no problem".

As Pape was then in an ongoing relationship with the young woman referred to in Chapter 5, it may be that Pape was referring to the breakup of the relationship with his former fiancée of which he had spoken in his conversation with the psychologist at Kapooka on 9th October, 2007.

His girlfriend gave evidence that Pape was upset over the death of his grandmother and later over his reclassification so that he was unable to be deployed overseas. She also said that she was aware that Pape had bills to pay and that she thought that this was worrying him. After his death an overdue account for a telephone service in the sum of \$573.58 was found in his unit (Photograph Image No. 0012 contained in Exhibit 38). Nevertheless, she did

not think of him in terms of suicide, and, indeed, she expected to meet him for a meal on the evening of the day he died.

Soldiers who knew him gave evidence of taking part in the suicide awareness program. None of them had observed anything abnormal about his demeanour and did not consider that he was in need of help. It appears that, from their perspective, his death was not foreseen.

The Physical Training Instructor who interviewed Pape at some length on 26th August, 2008, when Pape first went to Coral Platoon, was impressed by his motivation and his desire to return to work in his former Platoon. The Instructor thereafter saw him each day at an hourly training session. On learning of Pape's death the Instructor said he was shocked, not able to understand how such an incident could happen in the light of his acquaintance with Pape.

18. Reaction of Defence to the Death

It appears from all the information available that Benjamin Edward Pape died on the morning of Friday 5th September, 2008, at Lavarack Barracks, Townsville in the State of Queensland.

Notification of the death was made to higher command by means of FATALCAS prepared and sent from 1 RAR by LT Thomas James Middleton. This notification was received by COL Quirk within the office of the Chief of Army on the same day.

A Quick Assessment of the situation was made by LT Middleton also on the same day. The significant matters raised in the QA were:

- Pape was a rifleman who had been placed in a rehabilitation platoon because of a medical injury.
- His father had contacted 1 RAR complaining, among other things that the Army was not caring for his son.

- Pape had self referred himself to gain psychological support.
- Pape was concerned that he was drinking too much.

The assessment concluded that Pape had had ongoing personal issues and that it appeared that the death was a suicide. It was recommended that the matter should be referred to a "Routine Inquiry".

This Commission heard evidence that Pape self referred to a Chaplain but there was no evidence that he sought professional psychological support. It appears that he may have expressed concern over his alcohol consumption when speaking with the Chaplain.

The Commander of 1 DIV considered the QA on 11th September 2008, and concluded that there were complex factors surrounding the death. The Commander requested that a Commission of Inquiry should be conducted, rather than a Routine Inquiry as recommended in the QA.

On 12th September, 2008, the matter was considered by Army Land Headquarters. Based on the QA it was concluded that "this matter should properly be the subject of a COI" and that there were " a number of issues indicating that the COI should also consider any procedural and/or organizational issues (relating) to the medical, psychological and pastoral support provided to Pte Pape throughout his service ".

On 27th September, 2008, the Chief of the Defence Force indicated that he intended to appoint a COI into the circumstances surrounding the death.

On 17th May, 2009, the Chief of the Defence Force appointed an Inquiry Officer under the Regulations 69 and 70A of the Defence (Inquiry) Regulations and a report was sought by 19th June, 2009.

On 5th June, 2009, the Inquiry Officer advised the Chief of the Defence Force that because of factors beyond his control, namely that witnesses were on deployment or were otherwise unavailable, he was unable to report on his inquiry by the due date.

The reporting date was extended to 19th July, 2009.

On 15th June the Inquiry Team spoke with the local Coroner, who provided a copy of his report dated 30th March, 2009.

On 16th June the Inquiry Team interviewed members of 1 RAR. The manning at 1 RAR at that time was at a minimum due to training and overseas operation commitments.

The Inquiry Team continued its activities over the next few days in Queensland and Western Australia.

The Inquiry Officer reported to the Chief of the Defence Force on 15th July, 2009 and provided a further report on 18th November, 2009.

The Chief of the Defence Force appointed a Commission of Inquiry on 23rd January 2010.

The Commission of Inquiry commenced hearings on 9th March 2010.

19. The Role of the ADFIS in the Investigation of this Death

Eighteen months elapsed between the date of the death and the commencement of this Commission of Inquiry into the death.

During that time members of 1 RAR had been deployed overseas so that recollection of incidents in the distant past posed problems for a number of the witnesses. In addition, the search of Battalion records was made difficult as the records appeared to be incomplete in some respects.

However, on the date of death of Pape a member of the Australian Defence Force Investigative Service was at the scene. He was instructed that the civilian police service had the carriage of the investigation into the death and that he was to do no more than secure the scene and await the arrival of the civilian police.

The Australian Defence Force Investigative Service was set up by the Chief of the Defence Force on 21st March 2007. The investigative agencies of the three Services were

grouped into a single joint investigative service within the Australian Defence Headquarters under the direction of the Provost Marshal Australian Defence Force.

One of the functions of ADFIS is to inquire into matters involving Defence members and to collect relevant material for use by competent ADF authorities.

In addition to being responsible for investigating all complex service offences, ADFIS is also responsible for investigating all matters as directed by the Chief of the Defence Force.

The reporting and investigation of alleged offences within the Australian Defence Organisation is dealt with in Defence Instructions (General) ADMIN 45-2 Reporting and Investigation of Alleged Offences within the Australian Defence Force Organisation, dated 30th October 2001. Although the title given to the Instruction refers to "alleged offences" the scope of the Instruction is, in fact, much broader.

Notifiable incidents which are to be reported to a Defence Investigative Authority include deaths of Defence Members which occur on Defence premises even where there may be no reasonable suspicion of a offence being committed (paragraph 8(d)). In addition, a matter may be a Notifiable Incident if it is regarded as sensitive, serious or urgent, including the likelihood that an incident may adversely affect the efficiency of the Australian Defence Organisation (paragraph 10(c))

In a separate Instruction (DI (G) PERS 20-6-Death of Australian Defence Force Personnel) it is stated that regardless of the circumstance or location, the death of an ADF member is a Notifiable Incident and must be reported to Service Police.

Defence Investigative Authorities are required to receive reports of Notifiable Incidents and assume carriage of such matters when they are reported, decide whether to initiate investigations in accordance with standard operating procedure, conduct investigations where necessary and to provide briefs of evidence. (paragraph 26).

The instruction to SGT Davies on the morning of 5th September 2008 not to investigate the death of PTE Pape but to leave the matter to the civilian police was in accordance with the then existing standard operating procedure.

The rationale for this approach is that an investigation by the civilian authorities in such a serious issue as the death of an ADF member would result in the ADF appearing open and transparent to the scrutiny of an outside organisation. There is a further concern that an investigation by the ADF at that early stage after the death might compromise the Coronial investigation.

However, while the concern of the civilian authorities in this instance was to establish whether there were suspicious circumstances associated with the death, and if not, to establish the facts for the registration of the death, it is clear that the Australian Defence Force is concerned that the suicide or suspected suicide of a member of the Australian Defence Force should be investigated.

As paragraph 4 of the Terms of Reference for this Commission of Inquiry states:

“The purpose of the COI is to obtain information to inform military decision making - principally in the safety context. To this end the COI’s focus should be on any Defence related factors materially contributing to PTE Pape’s death and any actions that might reasonably be taken by Defence to reduce the chance of a similar occurrence”.

Had SGT Davies been given the opportunity to investigate the circumstances surrounding the death it is expected that the following action would have been taken:

1. All records both medical and personal held by the Battalion would have been seized. These would have include his conduct record, his competency log book and all other documents carried with a soldier who moves from one sub-unit of the Battalion to another sub- unit. These latter documents have not been located.
2. Photographs of the scene would have been taken so that it would not be necessary to rely on the civilian police to provide them. In fact one of the photographs

taken by the civilian police could be considered to be inaccurate and therefore misleading (see Chapter 8).

3. Statements would have been taken from the personnel who last saw the deceased alive and those who found his body. In addition members of Coral Platoon and his former platoon would have been interviewed and statements taken, including the officers and NCOs of those platoons.

4. The Chaplain would have been interviewed and a statement taken.

5. The incident referred to by the Corporal as having occurred 3 -4 weeks before the death would have been clearly identified as an issue for later consideration by a COI and would have been fully investigated in the days following the death.

It follows that, had these actions taken place, this Commission of Inquiry could have commenced at an earlier time and a more positive report is likely to have resulted.

It is expected that a review of the reports of Boards of Inquiry and Commissions of Inquiry since the issue of CDF Directive No 12/2006 on 30th May 2006 would result in the distillation of criteria for determining when a Commission of Inquiry is likely to be held. Such criteria could be used as the basis for a Standard Operating Procedure for ADFIS in cases of the apparent suicide of a Defence member.

LT COL Stephen Brian Vokes is currently serving as the Director of Operations of the Australian Defence Force Investigative Service and gave evidence at this Inquiry on operational procedures of ADFIS.

Vokes stated that, while care would be needed to ensure that a civilian police investigation was not compromised, ADFIS investigators were well trained and competent to investigate such Notifiable Incidents.

Vokes' evidence is of considerable weight as in civilian life he has been a member of the Queensland Police Service for 29 years and held the appointment of Detective for 17 years.

While the decision for the holding of a Commission of Inquiry always remains within the discretion of the Chief of the Defence Force such a preliminary investigation by ADFIS

would in no way compromise the chain-of-command but should be seen as an aid, and as a supplement to the system of Quick Assessment.

20. Conflict of Evidence involving Suicidal Ideation

During 2008 the focus of 1 RAR for that year was the upcoming deployment of the Unit to Afghanistan.

Pape was one of a number of members, who having passed out of recruit training, commenced Initial Employment Training at Townsville under the direction of 1 RAR. CPL Boyé was one of the instructors during that training course.

Later, when Pape completed his IET, he was posted on 24th July 2008 to B Coy where Boyé was a Section Commander.

By then the tempo of the training had increased. In August 2008 a number of Platoon Commanders and Platoon Sergeants were away on courses. Platoons 4 and 6 were combined. Platoon 5 did not exist for that period of time. B Coy comprised 62 soldiers who paraded together as one unit.

The Platoon Commander of 6 Platoon, LT Sharp, returned to the Platoon after live firing exercises on 11th August and left to commence an Assault Pioneer Course on 18th August. The Platoon Sergeant, SGT Sowell was present in the Platoon while Pape was a member but only for a short time. He was involved in tasks outside the Platoon on various 1 RAR exercises. However Sowell was back at the Platoon when he helped Pape march out of 6 PI and into Coral Platoon.

The effect of this was that CPL Boyé was the senior NCO in the combined unit.

Boyé made a statement on 5th March, 2010. In that statement he said that about three or four weeks prior to Pape's death those members of B Coy who were on duty at Lavarack Barracks had drawn weapons from the Company armoury and had moved to B Coy training

lines to carry out the non-technical inspection of weapons to ensure they were in working order.

Having completed the inspections the group was returning to the armoury. It was at this time that Boyé said in his statement that he overheard Pape say "I wish I had ammo so I could shoot myself in the head".

It was obvious that this was a serious matter and Boyé was adamant that it was not a matter which could be brushed aside.

Boyé ordered Pape to hand his weapon to another soldier to return the weapon to the armoury. Boyé then took Pape aside for about an hour, or perhaps more.

Boyé explored why Pape had made the comment and what problems Pape was having.

Boyé gave evidence that he then did three things. He gave Pape the number of his mobile phone so that Pape could contact him after hours. Secondly, he told Pape that he must report the matter up his chain of command. Thirdly, Boyé made a phone call to locate Chaplain Vesely, the 1 RAR Chaplain, and arranged for a meeting with the Chaplain. Boyé's evidence is that the meeting between the Chaplain and Pape took place after Boyé had briefed the Chaplain on the events of that morning.

LCPL Anthony Kenneth Meixner gave evidence that he heard the words spoken by Pape. The impression given by Meixner was that his recollection was unclear, but it was his evidence that he saw CPL Boyé approach Pape when that comment was made and it was CPL Boyé who handled the situation.

LCPL Duilio Dipasquale gave evidence that he was carrying out administrative duties in an office at B Coy used by the NCO's when CPL Boyé entered and told him that there had been an incident. Dipasquale asked Boyé what had happened and Boyé replied that he just had to take Pape up to see the Padre. Dipasquale in turn asked Boyé why and Boyé replied because Pape had made a statement that if he had live rounds he would shoot himself in the head.

LT Sharp gave evidence that he was sitting in his office in 6 Platoon. CPL Boyé walked in with two Lance Corporals and said "Boss we've got a problem" and gave an account of the incident involving Pape. In his evidence LT Sharpe was uncertain whether Boyé had already taken Pape to see the Padre or it was decided that was what should happen.

LT Sharp went on to say that he was informed by one of the Lance Corporals that Pape had been spoken to just after it had happened and that Pape had been asked "Is everything all right, what's going on?" and that Pape had replied "Oh, no, don't worry about it. I'm just talking shit".

It appears that B Coy was in a maintenance period during the week commencing 11th August and that non-technical inspections of weapons were likely to have been carried out on the Friday morning of that week, 15th August.

Boyé repeated an account of the incident, but not his actions in response to the incident, when SGT Davies spoke to him when he attended Baidoa Court after the death of Pape for the purpose of identifying the body.

LT Sharp had informed MAJ Birch after his initial interview with Pape that there may be psychological issues involving Pape and that there was a need to maintain a watch over the situation

LT Sharp was unclear in his evidence but believed that, when he was informed by CPL Boye of the incident involving Pape, he would have mentioned to MAJ Birch that Pape had gone to see the Padre but would not have told him the reason for that action.

For his part MAJ Birch said that he was aware that Pape was seeing the Padre and expressed his confidence in LT Sharp and his NCO's in handling the situation.

Chaplain Vesely also gave evidence at the Commission of Inquiry. He affirmed that such an incident, as described by Boyé, was a serious matter which should not be ignored, but that action by higher command must be taken.

However that was the only aspect which he was able to agree with Boyé.

Chaplain Vesely gave evidence that Boyé had not contacted him and that he had never received such a report from Boyé. He gave evidence that he was careful in making entries in his diary of his meetings with Defence members and would have made an entry in the diary if he had met Pape in the period between 28th July to 4th September 2008

21. Conclusions

(a) The circumstances surrounding the death of PTE Pape.

PTE Pape died on Friday 5th September 2008, at Lavarack Barracks, Townsville as a result of hanging.

At the time of his death PTE Pape was a member of the Regular Army living in Military quarters at 1 RAR.

He was a qualified infantryman but shortly before his death his medical classification had been down-graded from MEC1 to MEC301 and he had been transferred from an Infantry Platoon to a rehabilitation platoon. He was therefore ineligible for deployment until he had recovered his former classification.

His enlistment in the Defence Force was contrary to his father's religious beliefs and some of those who had been his friends ceased their friendly association with him for similar reasons.

Nevertheless, his mother, his two brothers and his sister continued to give him emotional support.

It is reported that at the time of his enlistment he had expected his then fiancée to join him after he had completed his recruit training. However she had later decided not to join

him but to remain in [redacted] This occurred some 12 months prior to his death, but there is some suggestion that he was still disappointed at this outcome.

There is some evidence that some 4 months before his death he referred to himself as suffering from depression.

In that same 12 month period PTE Pape had made friends with a number of his fellow soldiers and had formed a close relationship with another young woman.

PTE Pape had also received support from the Unit Chaplain in relation to his father's attitude towards him and also when he was distressed over the death of his paternal grandmother who died some 2 months before his own death.

PTE Pape received medical treatment, physiotherapy and a physical training regime in response to his lower limb injury which brought about his medical re-classification. However he was continuing to suffer pain, for which he received medication, up to the date of his death.

PTE Pape made a Will two days before his death.

There is no clear evidence as to why PTE Pape took his own life. There is expert evidence that young men may be at risk of suddenly deciding to take their own lives without any overt warning to those around them (see Chapter 17).

While there may have been other reasons which have not been discovered, the possible factors contributing to PTE Pape's decision to take his own life are his estrangement from his father's affections, the loss of his earlier friendships, grief arising from the death of his grandmother, his medical re-classification and his loss of the chance for deployment. Another factor which also cannot be discounted is the pain he suffered as a result of his lower limb injury.

The possible factors referred to above may be divided, firstly, into those personal to earlier life and, secondly, those relating to his lower limb injury.

So far as the second, which is to be regarded as Defence related, PTE Pape received appropriate medical treatment and supervision.

There is an absence of information which would support the proposition that a Defence related factor, namely the standard of rehabilitation available to soldiers at that time, was materially relevant to PTE Pape's death, or was proximately associated with the death.

However, the question remains whether the system of rehabilitation, while not a material factor in the death, could have been better.

This Commission of Inquiry has only had the opportunity of taking evidence in respect of the situation in 1 RAR during the years 2007 and 2008.

The personal influence and determination of Unit Commanders and Regimental Medical Officers are major factors in ensuring that a reasonable rehabilitation program is available at the Unit level, as was clearly evident in the situation under inquiry.

Having regard to the Terms of Reference, this Commission of Inquiry is constrained from embarking on a wider inquiry into such factors as the incidence of lower limb injury in the Army, and the role of Occupational Health and Safety Service in the provision of professional personnel in adequate numbers and skills at the Unit level to provide an appropriate service to injured soldiers.

The report of LT COL Dugdale which has been referred to earlier in Chapter 11 may be relevant when considering these questions.

Having regard to the increased incidence and intensity of deployment in the recent past and the probable continuation of these activities in the future, this Commission of Inquiry believes that it is appropriate to express concern over the potential for the increased need for effective rehabilitation services in the future.

(b) The sufficiency of Defence actions and decisions materially relevant to the death

(i) Immediately subsequent to the death

So far as the events subsequent to the death are concerned it is clear that they were sufficient in that the death was reported to the chain of command promptly and the Primary Emergency Contact and the next of kin were informed within due time. The family of the deceased received appropriate support from the Defence Community Organisation and continued to do so.

(ii) Prior to the death

However, there was evidence given of an incident prior to the death which, if proved to be correct, could be considered as materially relevant to the death.

Findings of fact must be reached on the balance of probability but, having regard to the consequences which might flow from findings of fact on this issue, the Commission is mindful that the degree of satisfaction necessary to reach a finding must reflect the seriousness of the consequences of that finding.

There was evidence of two very similar incidents which occurred during PTE Pape's short time as a soldier.

It has been established that the first incident occurred on 6th October 2007, when Pape cocked his firearm and fired the action while agitated during weapons training. Fellow recruits expressed concern. His Section Commander responded by seeking assistance. Pape was admitted to the Unit Medical Centre.

This incident was correctly dealt with as an instance of suicidal ideation and he was assessed by a psychologist in accordance with Defence Instructions (General) PERS 16-26 – Management of a Suicidal Episode in the Australian Defence Force.

It should also be noted that the incident was recorded on Form OC97 – Record of Conversation by his Section Commander.

There was evidence of a second incident. The actual day has not been established but it was probably Friday, 15th August, 2008. No written record was made.

It is noted that two days previously the recommendation was made that Pape's medical classification be downgraded to MEC 301.

PTE Pape was said to be carrying a weapon back to the Company armoury after non-technical inspections in the Company training lines. He was overheard to say " I wish I had ammo so I could shoot myself in the head".

This second incident, if it occurred, could have amounted to an instance of suicidal ideation. The similarity of the two incidents is remarkable in that on each occasion Pape was carrying a weapon.

The instruction DI(G) PERS 16-26 is not clear in that there is a implicit discretion. In practice it would appear that what occurs is an assessment whether the words spoken or gestures made are made in jest or are to be taken seriously. If the judgement is made that the individual is serious, the Instruction clearly should be followed and the individual is to be presented to a medical officer.

On becoming aware of a possible suicidal episode, amounting to suicidal ideation, where no immediate danger is perceived to the individual, a non-commissioned officer may be seen to fulfil his/her responsibility by putting in place the means of determining whether the individual is serious and by reporting the matter to his chain of command.

The Corporal gave evidence that he spoke to the Unit Chaplain informing him of the incident and handed Pape over to the Chaplain. He also said that he reported the incident to his chain-of-command.

The evidence of the Platoon Commander was that CPL Boye reported the incident to him and that either CPL Boyé had already taken Pape to the Chaplain or that he, the Platoon Commander, contacted the Chaplain to book an interview with the Chaplain for Pape.

The Chaplain gave evidence that no such report was made to him and that he had no knowledge of the incident.

There are two questions to be decided by this Commission of Inquiry.

The first question to be determined is whether the incident in August 2008 took place. There is the evidence of the Corporal himself together with that of a Lance Corporal who heard the words spoken by Pape and who saw the Corporal intervene, there is the evidence of a Lance Corporal to whom the Corporal spoke immediately after the incident and there is the evidence of the Platoon Commander to whom he reported the incident. There is also evidence from other soldiers who heard of the incident by way of rumour, those rumours not being inconsistent with the happening of the incident. Further, on learning of the death of Pape, the Corporal reported the fact of the incident to an Investigator of the ADF Investigative Service.

Taken together this is cogent evidence giving rise to the degree of satisfaction necessary..

The Commission finds as a fact that the words were spoken and that CPL Boyé reported the matter to his chain-of-command, the Platoon Commander

In doing so CPL Boyé complied with the spirit of the Instruction and carried out his duty in respect of this incident.

For his part the Platoon Commander, appears to have been of the belief that the Chaplain was involved in resolving the issue.

The Commission is of the view that the Company Commander was entitled to rely on the issue being dealt with at the Platoon level

The second question is whether the report of the incident reached the Unit Chaplain.

There is a clear conflict of evidence on this issue. This conflict was not explored until the second session of hearings held by this Commission, that is almost two years after the incident and after witnesses had experienced a host of military activities.

This Commission is unable to reach an answer to this question which must remain unresolved.

If PTE Pape had been referred to a mental health professional for risk assessment, the earlier psychological assessment made in 2007 would have been called up and Pape's current state of mind and his ongoing concerns would have been explored.

The outcome of psychological support, had it been provided on or about 15th August, 2008, cannot be determined. Pape does not appear to have exhibited any outward signs of emotional distress in the few weeks leading up to his death.

(c) Any substantial weakness or deficiencies in Defence systems, policies and procedures proximately associated with this death

The difficulty referred to above, resulting in the inability of this Commission to determine the question of the conflict in the evidence, could well have been avoided had the circumstances surrounding the death been fully investigated at an early stage and not some twenty one months later.

The policy that ADFIS does not investigate apparent suicides of Defence personnel was explored in Chapter 19 above and, in the view of this Commission, this policy amounts to a substantial deficiency proximately associated with PTE Pape's death.

RECOMMENDATIONS

1. The absence of any record of an incident which may have amounted to suicidal ideation in August 2008 has contributed to the unsatisfactory outcome of this Inquiry.

All suicidal behaviour should be taken seriously.

If an episode of suicidal ideation occurs, or if there is any doubt arising from verbal remarks or gestures about the intentions of an individual, a report should be made to the

immediate chain of command and a Quick Assessment should be raised leading to a decision whether the individual should be presented to a medical officer. It is recommended that Defence Instruction (General) PERS 16-26 should be amended accordingly.

Chapter 14 refers

2. It is recommended that consideration should be given to the Chief of the Defence Force issuing a direction that the Australian Defence Force Investigative Service make investigations into deaths of Defence personnel arising from apparent suicide and that the definition of "Notifiable incident" in DI(G) ADMIN 45-2 be amended accordingly.

Chapter 19 refers.

P.O.Box 1083
Fremantle
WA 6959

January 30th 2010

Air Chief Marshal A.G.Houston AC, AFC
Chief of the Defence Force
R1-5-B CDF Suite
Russell Offices
CANBERRA ACT 2600

Dear Air Chief Marshal

On 23rd January 2010 you appointed me to be the President of the Commission of Inquiry for the purpose of inquiring into the circumstances surrounding the death of Private Benjamin Edward Pape.

I received the Instrument of Appointment on Wednesday 27th January 2010, together with material prepared by the Inquiry Officer and Inquiry Assistant as part of their Scoping Report.


In the Terms of reference attached to the Instrument of appointment you required me to provide you with a written update on the last working day of each month. In view of the short period of time which has elapsed since my appointment I have not been able to comply with that requirement, but I now do so.

Based on the material presently available to me, I have identified a number of further lines of inquiry which should be followed and resolved before the Commission can proceed to a hearing.

I am conscious of the need to progress this matter in view of the passage of time since the death of Private Pape.

Yours sincerely

D.A.McCann



Air Chief Marshal A.G. Houston, AC, AFC
Chief of the Defence Force
R1-5-B CDF Suite
Russell Drive
CANBERRA ACT 2600

Dear Air Chief Marshal

On 23 January 2010, you appointed me President of a Commission of Inquiry into the death of Private Benjamin Edward Pape ('the Commission'). On 30 January 2010, I provided you with my first progress report required by the Terms of Reference attached to my Instrument of Appointment. The purpose of this communication is to provide you with my second progress report.

To date, 31 witnesses have been identified. Not all of these witnesses will be called, but their statements will be tendered. A list of witnesses is contained at Enclosure 1. At this point in time, no individual person has been identified as a potentially affected person.

Currently, three summons pursuant to Regulation 30 of the *Defence (Inquiry) Regulations* are being prepared for issuance to civilian witnesses – Ms Kristy Davies, Constable Scott Roberts and Doctor Shatendra Gupta. Orders have been given to Service members to attend the Inquiry.

Private Pape's family has received Defence Community Organisation support from Defence Social Worker, Mrs Joan McPherson, and Military Support Officer, Lieutenant Commander Andrew Carter. After meeting with the family, it would appear that Mr Christopher Pape (brother and single representative for Private Pape), Mr Timothy Pape (brother), Ms Julia Underwood (mother) and Ms Amanda Pape (sister); would all like to attend some, if not all, of the hearings.

The Commission will be held at the Air Commodore Harry Cobby Centre at the Royal Australian Air Force Base Townsville. It is intended that the hearings will commence on 9 March 2010 and conclude by 19 March 2010. The Commission will sit daily from 0930 hours to 1630 hours with appropriate adjournments.

All support personnel have been identified and will commence the week proceeding the hearings. Counsel Assisting advises that there appear to be no security implications associated with the Inquiry.

The scope of the Inquiry witnesses' evidence is listed at Enclosure 2. This task is not considered to be unduly complex. In the event that other witnesses or evidence is identified, they shall be notified and called to give evidence.

The primary resource implications are accommodation and travel for myself, Counsel, the deceased's family and a number of witnesses. As the hearing does not involve more than normal staffing requirements and court recording facilities, it is not anticipated that expenditure will be incurred beyond the reasonable costs of the activities outlined herein.

Yours sincerely



D.A. McCANN

President

Commission of Inquiry into the death of Private Benjamin Edward Pape

26 February 2010

Enclosures:

1. Witness List
2. Scope of Inquiry

WITNESS LI

Category		Name	Location		
Former Coral Pl SGT	1	SGT Desmond MCCOY	WATSONIA (WO & SNCO Wing)		
Current Coral Pl SGT	2	SGT Andrew MYERS	LAVARACK (1 RAR)		
Service History of PTE Pape	3	CHIEF CLERK	LAVARACK (1 RAR)		
Former COMDT ARTC	4	COL William HANLON	PADDINGTON (FORCOMD)		
Former CO	5	LTCOL Peter CONNOLLY	CANBERRA		
Former Sect Comd	6	CPL Lucas BOYE	SINGLETON (SCH OF INF)		
Former ADJT 1 RAR	7	MAJ Christopher ROHAN	EXMOUTH, WA (PILBARA REGT)		
Best friend	8	PTE David FOREMAN	LAVARACK (1 RAR)		
Girlfriend	9	MS Kristy DAVIES	TOWNSVILLE (CIVILIAN)		
Friend	10	PTE Phillip HARRISON	LAVARACK (1 RAR)		
Neighbour	11	PTE Jared LOUDEN	LAVARACK (1 RAR)		
Neighbour	12	PTE Samuel FROOD	LAVARACK (1 RAR)		
Friend	13	PTE Todd CROSSIN	LAVARACK (1 RAR)		
Found body	14	PTE Matthew HASSALL	LAVARACK (1 RAR)		
Found body	15	PTE Christopher NELSON	LAVARACK (1 RAR)		
Former RSM, 1 RAR	16	WO1 Peter MARSH	ROBERTSON (WO & NCO TRG)		
Duty Officer	17	WO2 Craig RIENIETS	DUNTROON (RMC)		
ADFIS Investigator	18	SGT Steve DAVIES	LAVARACK (JIO TOWNSVILLE)		
Former AADJT Conducted QA	19	CAPT Tom MIDDLETON	LAVARACK (31/42 RQR)		
SO Pers 3 Bde	20	MAJ Josephine RICHARDS-BELL	MEAO		
Attending QPS	21	CONST Scott ROBERTS	TOWNSVILLE (QLD POLICE)		
RMO	22	CAPT Andrew CHALLEN	LAVARACK (1 RAR)		

Civilian Doctor	23	Dr Shatendra GUPTA	TOWNSVILLE (CIVILIAN)		
Chaplain and confidante	24	CHAP Charles VESELY	LAVARACK (4 FD REGT)		
Director of ADF Mental Health	25	COL Stephanie HODSON	CAMPBELL PARK (DPSYCH)		
Principal Psychologist	26	Mr Geoffrey GALLAS	CAMPBELL PARK (DPSYCH)		
Former OC	27	MAJ Anthony BIRCH	GEORGIA USA (FORT BENNING)		
Former PL COMD	28	LT Ryan SHARP	LAVARACK (1 RAR)		
Former PL SGT	29	SGT Andrew SOWELL	BURNIE, TAS (12/40 RTR)		
Battalion 2IC	30	MAJ Robert WALLACE	LAVARACK (1 RAR)		
Family Support	31	Ms Cathy Davis	CANBERRA (DCO)		

SCOPE OF INQUIRY

SC 9 4

1. Private Benjamin Pape's history before recruitment and his service history subsequently.
2. Private Pape's transfer to the Rehabilitation Platoon, the reasons for this action and his supervision therein.
3. A retrospective examination of his mental health during his service.
4. The sequence of events leading up to his death.
5. The procedures of the Australian Defence Force Investigative Service (ADFIS) upon the death of a service member.

March 22nd 2010

Air Chief Marshal A.G.Houston AC, AFC
Chief of the Defence Force
R1-5-B CDF Suite
Russell Offices
CANBERRA ACT 2600

Dear Air Chief Marshal

I refer to my letter to you dated 26th February 2010 when I provided you with my second progress report on the Commission of Inquiry into the death of Private Benjamin Pape.

The hearings of the Commission commenced as anticipated on 9th March 2010, but it was not possible to conclude the hearings on 19th March 2010.

On 12 March 2010 a conflict of evidence arose in respect of an issue which is central to one of the Terms of Reference, namely, the sufficiency of any actions taken by Defence personnel which are materially relevant to PTE Pape's death. This conflict was not readily apparent from the material which had been prepared as part of the scoping process.

Since that time Counsel Assisting have undertaken further scoping in order to explore *the circumstances out of which the conflict has arisen for the purpose of enabling the commission to resolve the matter.*

The circumstances with which the Commission is concerned occurred in about the month of August 2008. The passage of time has rendered the task of Counsel Assisting to be of considerable difficulty.

The consequence of the conflict of evidence is that three members of the Defence Force have been identified as Potentially Affected Persons. The Commission is now in the process of advising those members in accordance with the Defence (Inquiry) Regulations. One of those members remains in Queensland, one is stationed interstate and the third has been posted overseas.

It is anticipated that the members will each appoint a legal practitioner. Reasonable time must be given for those legal practitioners to take instructions and prepare for the further hearings of the Commission.

of sittings. It is my intention, however, not to allow any unnecessary delay in concluding this matter.

I shall furnish a further report to you as soon as the situation becomes clear.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'D.A. McCann', written in dark ink.

D.A. McCann
President
Commission of Inquiry into the death of Private Benjamin Edward Pape

May 4th 2010

Air Chief Marshal A.G.Houston AC, AFC
Chief of the Defence Force
R1-5-B CDF Suite
Russell Offices
CANBERRA ACT 2600

Dear Air Chief Marshal

RE Pape COI

I refer to my letter to you dated 22nd March 2010 when I provided you with my third progress report on the Commission of Inquiry into the death of Private Benjamin Pape.

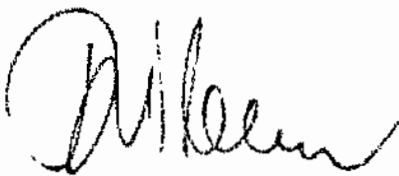
Further scoping has taken place by Counsel Assisting in an endeavour to explore the conflict in the evidence which has arisen in this matter.

It has not been possible to yet contact all of the legal practitioners who have been instructed to appear on behalf of the three Potentially Affected Persons.

It is possible that the Commission of inquiry may be able to be re-convened in the coming month of June.

I shall report to you again as soon as the position is clearer.

Yours sincerely



D.A. McCann
President
Commission of Inquiry into the death of Private Benjamin Edward Pape