

**INQUIRY INTO CIRCUMSTANCES SURROUNDING THE FAILURE TO  
REPATRIATE THE BODY OF PRIVATE JACOB KOVCO TO AUSTRALIA ON  
25 APRIL 2006**

**Executive Summary<sup>1</sup>**

1. Private Jacob Kovco was fatally injured in Baghdad on the evening of 21 April 2006 after suffering a gunshot wound to the head. Private Kovco was evacuated from the incident site to the US 10<sup>th</sup> Combat Support Hospital (CSH) where he underwent emergency treatment for approximately two hours before being pronounced dead at 211852DApr06. Private Kovco's body was evacuated<sup>2</sup> from Baghdad using Australian and US military transport assets and arrived at the US Theatre Mortuary Evacuation Point (TMEP), Kuwait City International Airport (KCIA), at 231700DApr 06.

2. At 241030DApr 06 Private Kovco's body was transferred to a civilian ambulance for transportation to a civilian mortuary at Al-Sabah Hospital, Kuwait City, under arrangements made by Gulf Agency Company, Kuwait Limited (GAC), a sub-contractor to Kenyon International<sup>3</sup>. The decision to transfer Private Kovco to the contractor was a sound and considered decision<sup>4</sup> due the lack of integral ADF capability. The use of the civilian mortuary was a result of a number of influences rather than a considered decision; these influences included, previous experience, a degree of unfamiliarity with the scope and capacity of the contract with Kenyon International and a degree of unfamiliarity with the Status of Forces Arrangement (SOFA).

3. The failure to repatriate the body of Private Kovco on 25 April 2006 was a direct result of the production of the wrong body by civilian mortuary staff and a process to confirm the identity that resulted in a cursory and incorrect identification of the body presented as Private Kovco. The body presented for identification was that of Bosnian national (confirmed to be Mr Juso Sinanovic<sup>5</sup>).

4. The responsibility to confirm the identity of the body was not specified or defined and as a consequence a number of assumptions were made by those personnel present at the civilian mortuary. The body produced by the civilian mortuary was incorrectly identified by reason of:

- a. an expectation that the body produced by mortuary staff would be that of Private Kovco;

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<sup>1</sup> Responds to TOR Para 1.

<sup>2</sup> The process of evacuation is a tactical operation coordinated and commanded within the Area of Operations. The process of repatriation (return to the homeland) is conducted by the operational/strategic level of command from an agreed point, in this instance Kuwait.

<sup>3</sup> Commonwealth and Kenyon International Standing Offer of 2003 provides ADF access to the services of Kenyon International for the repatriation of deceased ADF personnel.

<sup>4</sup> Kenyon and GAC successfully repatriated [REDACTED].

<sup>5</sup> State Coroner Victoria, Identification of Deceased Person by way of circumstances Coroner's Order, Case No: 1524/06 dated 1 May 2006 at Annex O.

- b. the environmental conditions of the mortuary, such as poor illumination and crowding;
- c. the unspecified but assumed reliance on the ADF escort to confirm the identify the body due to his relationship with Private Kovco;
- d. head bandaging on the body produced being consistent with expectations of how a head injury would be masked, and a belief by the ADF escort that embalment had taken place and had changed the body's appearance; and
- e. the 'state of mind' and lack of training of the ADF escort at the time and his lack of psychological preparation.

5. Against these factors, it is unfortunate that no-one examined the body with sufficient care to notice a cardboard tag attached to the hand bearing the name Juso Sinanovic and his passport number.

6. The inquiry has also found weaknesses in ADF policy and procedures for mortuary affairs which created conditions conducive to failure<sup>6</sup>. These weaknesses include:

- a. scope for breaking the chain of custody of the body;
- b. reliance on visual identification as the sole means for verifying the identity of the body at different stages of repatriation<sup>7</sup>;
- c. reliance on a single individual to perform the escort duties;
- d. the loss of positive military control of the body when it is handed over to civilians without appropriate direction;
- e. the inclination to accelerate the process of repatriation owing to domestic factors;
- f. the lack of adequate guidelines for ADF escorts;
- g. the lack of adequate ADF joint doctrine for mortuary affairs;
- h. the lack of any single ADF decision-making authority for repatriation matters;
- i. failure to specify with sufficient certainty the scope of the service sought from the contractor; and

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<sup>6</sup> Responds to TOR para 30.

<sup>7</sup> Noting that Private Kovco was not wearing ID (Dog) tags and there is little evidence that the cross check of any tagging with documentation occurred.

[REDACTED]

j. the lack of adequate knowledge in theatre with respect to the nature and scope of civilian contractor resources and processes for repatriation in these situations.

7. When the body of Private Kovco was successfully repatriated to Australia on 27 April 2006 the identification process was based on the mortuary staff presenting the correct body and on a robust chain of evidence for identification, including medical records which provided confirmation of the appearance of the body, photographs of the deceased and close examination by those present during the identification process.

8. The preferred method for evacuation of ADF personnel within the Area of Operations is to maximise use of the US Mortuary Affairs capability and of military transport arrangements. Repatriation from Kuwait to Australia is to be controlled by the ADF and it is preferable to utilise military sustainment flight, military strategic lift transport or military charter. Any repatriation through commercial arrangements must be in close cooperation with the prime contractor Kenyon International. The inclination to accelerate the repatriation process and facilitate the return of Private Kovco within four days from his death is too short a timeframe within which to properly risk-manage and execute a complex and highly sensitive situation. The US mortuary affairs system is based on a seven to eight day process from fatality to home base.

9. Although this inquiry concentrated on the repatriation of the body of Private Kovco, there is an imperative need to review the ADF concept of, and practical management processes for, mortuary affairs and repatriation of its deceased personnel from overseas theatres of deployment.

### Summary of Findings and Recommendations

#### Findings:

##### Chain of Custody

- The chain of custody is clearly recorded when Private Kovco was processed through the military evacuation arrangements.
- There is a lack of documentation from the period when Private Kovco was transferred to the contractor and civilian mortuary.
- There was no identified authority for maintaining the chain of custody during the evacuation and repatriation.
- Positive control of Private Kovco was lost when leaving the military process.

##### Causal Factors – Identification

The incorrect identification of the body as being that of Private Kovco is attributed to:

- The mortuary staff presented the wrong body when the body of Private Kovco was called for.
- Insufficient care was taken to identify the body.
- Contractor was not engaged to ensure accurate identification of the deceased, but rather to act as a freight forwarder.
- The break in the positive military chain of control occurred at the civilian mortuary when the body was moved from the transfer casket.
- Lack of explicit instruction to the ADF escort regarding the nature and extent of responsibility for identification.
- The ADF escort was too close to the deceased and minimised his exposure to the body.
- The ADF escort was fatigued due to the timeline for the evacuation from the incident site and this contributed to human error.
- Failure to notice the tag on Mr Sinanovic, and over-reliance on visual identification.
- Other factors including environmental conditions at the mortuary, racial similarity between the two bodies, the presence of head bandaging on the Bosnian and expectations relating to embalment, the state of mind and lack of training of the escort and his lack of psychological preparation.

The successful repatriation of the body of Private Kovco on 27 April 2006 may be attributed to a number of factors including:

- Presentation of the correct body for identification.
- Positive identification facilitated by photographs and anatomical diagrams of the body.
- Combined efforts by the consular official and ADF member (second appointed escort) to ensure thorough procedures were applied to the process of confirming the identity of the deceased.

**Causal Factors – Mortuary**

- Due to the ADF's limited mortuary affairs capability and limited education and training in the process of mortuary affairs and repatriation, there is significant reliance on other military or civilian authorities.
- The repatriation of deceased ADF personnel should avoid the civilian mortuary and be sent directly to Australia.

**Systemic - Internal**

- The tactical level, the JTF staff, carried out their responsibilities effectively.
- Although the ADF Mortuary Affairs Officer at the JTF is not specifically trained or educated in the process of mortuary affairs, the Mortuary Affairs Plan developed by the Joint Operations Command provides a reasonable guide for the evacuation process.
- The Mortuary Affairs Plans provided have inconsistencies and draw on a number of policy documents but was not based on any Joint or Single Service doctrine.
- There was a lack of understanding regarding the SOFA requirements (extent of need to comply with local authority processes) in this matter, leading to the unnecessary involvement of the Kuwait civilian mortuary.
- Extant guidelines for ADF escorts are inadequate.
- The perceived imperative to repatriate the body of Private Kovco as quickly as possible, a process that required close control and monitoring, caused an accelerated approach to be taken. This increased the risk of, and indeed resulted in, human error.
- The US repatriation process is based on 7 to 8 days.
- The decision to use the fastest means resulted in the need to use commercial air.
- The use of commercial air influenced actions regarding the civilian mortuary.

**Systemic – Internal – Contract**

- The extant Standing Offer with Kenyon is general in its scope.
- The arrangements for the repatriation of the body of Private Kovco did not include the requirement for the contractor to identify the body for repatriation.

**Systemic – Internal – Decision Process**

- The Commander executed his responsibility as the authority for the evacuation of Private Kovco responsibly and with compassion.
- There is a tendency in the ADF, understandably in circumstances of this nature, to accelerate a complex and highly sensitive process; doing so introduces a higher risk of error.
- ADF personnel involved in the repatriation of the body of Private Kovco were professional and capable but lacked adequate training, education and awareness of the responsibilities associated with mortuary affairs.
- There is no specific appointment with overall decision-making authority and responsibility for the process of repatriation.

**Systemic – External**

- ADF awareness of external influences on repatriation was limited.

- Work on the relationship between ADF and Coroners is progressing.
- There was insufficient guidance to all agencies supporting the repatriation which lead to difficulties in the failed repatriation to Melbourne Airport.

**Recommendations:**

**Chain of Custody**

- Avoid transfer of ADF deceased personnel through civilian mortuaries unless the maintenance of positive control can be assured.
- Specify that the role of the contractor is to ensure that positive control is maintained if ADF deceased are required to transit through civilian mortuaries.
- Examine the role of the ADF escort in the chain of custody requirements.
- Develop a check list for the ADF escort to ensure the chain of custody requirement is followed.

**Causal Factors - Identification**

- Contract activation must require contractor responsibility for ensuring the civilian mortuary staff verify the identity of the body presented for identification.
- ADF Policy for identification responsibilities to be clearly defined.
- Revised ADF Mortuary Policy should include, as an Annex, a 'For Action' checklist and flow chart.
- ADF Policy is to include specific criteria as to what constitutes identification of deceased ADF personnel.
- Review of the current tagging and labelling practices including reinforcing policy on wearing of dog tags at all times while on operations.
- Escort responsibilities cannot be assigned to any one individual, due to the often conflicting requirements of monitoring the body and maintaining objectivity throughout the process.
- At least two personnel should be assigned to escort deceased ADF personnel and at least one should not be closely associated with the deceased.
- ADF work with Kenyon International to confirm the scope and capacity of extant contract arrangements.

**Causal Factors - Mortuary**

- For the MEAO, the US Mortuary Affairs system should be utilised.
- The repatriation of deceased ADF personnel to the maximum practicable extent, avoid the civilian mortuary facilities and be effected by way of most direct possible dispatch to Australia.

**Systemic - Internal**

- Personnel appointed to the role of Mortuary Affairs Officer must receive education in responsibilities and accountability.
- Joint Mortuary Affairs doctrine needs to be developed to inform mortuary affairs planning.
- Continue to utilise the US mortuary evacuation process where arrangements exist in the area of operations, and when they meet ADF requirements.

- Strategic repatriation is to be under ADF control.
- Avoid accelerating the process of repatriation to ensure that the best, rather than the fastest, possible means are used.
- Extant doctrine, policy and orders regarding ADF Mortuary Affairs need to be reconciled with each other and developed into an ADF joint document.
- Doctrine is limited to a Land Warfare Publication. There is no reference to this doctrine in the orders or instructions for operating in the MEAO.

**Systemic – Internal - Contract**

- Logistics personnel responsible for mortuary affairs planning and coordination must be trained in ADF capabilities and limitations, coalition arrangements and contractor arrangements.
- Defence must clearly define and communicate its repatriation requirements (including timeline and milestone reporting by event and/or regular set timings) in the Work Authorisation Request and ensure these are acknowledged by the contractor.

**Systemic – Internal – Decision Process**

- Logistics staff receive education on the mortuary affairs process.
- The appointment of a decision authority to maintain control of the decisions and contract provisions activated to support ADF repatriation.

**Systemic – External**

- Use military transport to facilitate repatriation.
- Review the reception procedures and responsibilities for the process in Australia.
- Joint Operations Command release task orders for the repatriation of deceased ADF members giving the Service Headquarters responsibility for all required administrative arrangements on arrival of the deceased in Australia and assign in support agencies for the repatriation.

**E.COSSON**  
Brigadier  
Inquiry Officer

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In consultation with:

Professor Don Sheldon

Inquiry support staff:

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