



Police Federation
of Australia

The National Voice of Policing

SUBMISSION to the

Veterans' Legislation Reform
Consultation Pathway

via – legislation.reform@dva.gov.au

Veterans' Legislation Reform Consultation Pathway

The Police Federation of Australia (PFA) is the national body representing the professional and industrial interests of Australia's in excess of 65,000 police officers, across all state, territory, and the federal police jurisdictions.

Membership as at: 31 December 2022	
Police Association of South Australia	4,703
Western Australia Police Union of Workers	6,880
Queensland Police Union of Employees	12,177
The Police Association (Victoria)	17,424
Police Association of NSW	17,020
Police Association of Tasmania	1,415
Northern Territory Police Association	1,628
Australian Federal Police Association	4,040
Police Federation of Australia	65,287

I have read and strongly support the submission to this Consultation Pathway by the Australian Federal Police Association, an affiliate of the PFA, particularly as it applies to their identified objectives of –

- official recognition of police who have served in active conflict zones as 'veterans', similar to the recognition afforded to ADF personnel within the *Australian Defence Force Veteran's Covenant*,
- the introduction of presumptive legislation for psychological injuries sustained by members of the AFP, and
- an AFP 'Blue Card' for retired members who diligently served their country and community.

The following submission adds weight to their arguments.

Since 1964 Australian police have served in numerous United Nations Missions, Multi-National Forces, Truce Monitoring Groups and the like.

In evidence to the 2002 Clarke Commission of Review of Veteran's Entitlements, the United Nations Police Association of Australia (UNPAA) said Australian Police had been -

"Killed and wounded with many others suffering from the effects of their duties, performed whilst generally unarmed, under circumstances of extreme danger in locations of squalor and non-existent hygiene and operating without the benefit of the ancillary services that accompany military units.

They have been subjected to civil war, air attack, minefields, snipers, crossfire, taken hostage, been threatened with death, taken 'prisoner of war', stoned, spat upon, assaulted and insulted. They have witnessed and investigated horrendous crimes against humanity. Yet they have never flinched, have carried out our duties and returned to 'hot' areas after having been evacuated previously to protect those whom they gave their word that we would protect".

Historically, Australia's police serving in overseas peacekeeping deployments had been covered by the *Veterans' Entitlements' Act 1986*, as 'peacekeepers', entitling them to the same disability benefits as defence force personnel. That situation changed with the commencement of the *Military Rehabilitation Compensation Act 2004*, an Act from which police, as peacekeepers, have been excluded. No compensating legislation has subsequently ever been provided to fill this vacuum.

It was proposed that this gap would be filled by providing "compensation and rehabilitation benefits commensurate to those provided to Defence Force personnel". However, this was done through the *Safety Rehabilitation Compensation Act 1988* and a *Commissioners' Determination*. The *SRCA* was never designed to meet such operational circumstances as it is primarily a Workers' Compensation and Rehabilitation regime for domestic purposes and a *Commissioners' Determination* can be amended with the stroke of a pen and has no legislative underpinning.

For many years, the Australian Federal Police Association (AFPA) and the PFA, have argued that any Act to cover police should be a stand-alone piece of legislation, managed and controlled by the responsible Home Affairs/Justice Minister yet administered by the Department of Veterans' Affairs, in a similar fashion to the *Military Rehabilitation Compensation Act 2004*. Deployed defence and police forces carry out similar but not identical functions in an overseas environment which carries with it a significantly increased element of danger.

In 2000, the Senate Foreign Affairs, Defence and Trade References Committee, in its inquiry into the East Timor situation of 1999, identified (in Chapter 3 of their Report under the sub-heading of "AUSCIVPOL" at paragraph 3.48) the Committee's assessment of the duties, difficulties and dangers experienced by AUSCIVPOL and identified that many of their experiences in country, were greater than those experienced by the ADF (Annexure A).

On 27 February 2006, the then Minister for Justice and Customs, Senator Chris Ellison announced that AFP officers serving overseas would soon benefit from the support of a police-specific compensation and rehabilitation scheme relating to dangerous foreign missions (Annexure B). He said the proposed scheme was in recognition of "the increased role of police at the front line in a time of heightened risk and will ensure AFP compensation entitlements remain consistent with those currently provided to Australian Defence Force members in similar mission circumstances".

In October 2006 the Minister advised that the legislation would shortly be available.

In 2007, the then Minister for Employment and Workplace Relations, the Hon Joe Hockey wrote to his colleague, Senator Marise Payne, outlining the process for the drafting of the legislative amendments suggested by Senator Ellison (Annexure C).

In 2008, the Senate Standing Committee on Foreign Affairs, Defence and Trade undertook an Inquiry into Australia's Involvement in Peacekeeping Operations. Chapter 22 of the Report from that Inquiry was devoted to compensation and rehabilitation issues for peacekeepers (Annexure D). It acknowledged that whilst compensation and rehabilitation was not specifically mentioned in the terms of reference, in light of the concerns raised in submissions and during oral evidence, the committee determined to draw attention to the issues.

Recommendation 28 of the final report stated –

The committee recommends that the Australian Government release a policy paper outlining the options and its views on a rehabilitation and compensation scheme for the AFP, invite public comment and thereafter release a draft bill for inquiry and report by a parliamentary committee.

In June 2009, AFP Assistant Commissioner Paul Jetkovic APM, then National Manager Human Resources, wrote to Mr Luke Brown, then Director of the Military Compensation Review, suggesting that drafting of the necessary legislative amendments to the SRCA had proved to be extremely complex and the exercise had been suspended in 2007. Jetkovic went on to say that the AFP had come to the conclusion that it preferred the option to develop a stand-alone compensation scheme for AFP high risk overseas missions (Annexure E).

Jetkovic also highlighted that the then Deputy Prime Minister (the Hon Julia Gillard MP), consistent with the Government's pre-election commitment, had separately asked the AFP and the Department of Employment and Workplace Relations to bring forward a submission for a stand-alone compensation and rehabilitation scheme for police appointees in high-risk missions overseas.

And in November 2009, the then Minister for Home Affairs, the Hon Brendan O'Connor MP wrote to the United Nations Police Association of Australia (UNPAA) confirming his support for a "separate legislative mechanism for AFP overseas missions" (Annexure F).

Despite what appears strong, long term bipartisan support for a stand-alone piece of legislation covering Australia's police, to date, nothing has subsequently been introduced into the Australian Parliament.

This issue needs be addressed as a matter of urgency.

In relation to the current consultation pathway proposal, the PFA is advised by members that it will have a significant impact on police officers, both members of the AFP (sworn and unsworn) and any state or Northern Territory Police officer who has been attached to a police peacekeeping mission as part of an AFP contingent.

It is argued, that currently, police officers who have served in eligible overseas peace keeping missions and have an entitlement to Department of Veterans Affairs (DVA) assistance under Schedule 3 of the Veterans Entitlement Act (VEA) via a White Card, or depending on the injury, a Gold Card, stand to lose that entitlement under the proposed legislative pathway.

We are further advised that the proposed “grandparented” provisions under the Legacy VEA and the Safety Rehabilitation and Compensation (Defence-Related Claims) Act 1988 (DRCA) only apply to Defence Veterans moving forward and not Police Peacekeepers.

This apparent anomaly needs to be clarified and if correct, rectified immediately. This highlighted concern further supports the Police Federation’s continued argument for a stand-alone piece of legislation for Police Peacekeepers serving in like circumstances to defence force personnel. Such a legislative instrument for police, should mirror defence force entitlements under the Legacy VEA and DRCA, as well as the new proposed, “single ongoing Act”.

Our argument becomes all the more compelling following the recent release of the Defence Strategic Review and Budget announcements.

The Defence Strategic Review, in relation to climate change and the potential for increased demands for peacekeeping, states -

“Climate change is now a national security issue. Climate change will increase the challenges for Australia and Defence, including increased humanitarian assistance and disaster relief tasks at home and abroad. If climate change accelerates over the coming decades, it has the potential to significantly increase risk in our region. It could lead to mass migration, increased demands for peacekeeping and peace enforcement, and intrastate and interstate conflict”.

And the Budget Papers highlight an extra \$1.9bn to be spent over the next four years to bolster Australia’s standing in the Pacific and strengthen regional security. That package includes \$1.4bn to strengthen Defence and Australian Federal Police engagement in key Pacific countries.

Perhaps in light of this consultation pathway and more recent police and veteran’s issues, particularly involving mental health and well-being matters, now is the appropriate time to revisit a proposed stand-alone scheme for police peacekeepers. We seek the support of this Consultation Pathway for that course of action.

I would be happy to provide any further information, either in writing or verbally, to the reform process.

Sincerely yours,



Scott Weber APM
Chief Executive Officer

12 May 2023

ANNEXURE A –

Extract from “ Foreign Affairs, Defence and Trade References Committee 2000 - Section 3.48:

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police sent to oversee the August 30 independence ballot. ‘It was an accident of history that these people didn’t serve the time normally required to achieve the UN medal,’ she said. ‘The men and women who went through the most dangerous time in Timor, who were there first, who were there unarmed before the army, are the ones who most deserve the medal.’⁶⁴

3.48 The Committee believes that the police who served in East Timor as part of UNAMET had a more difficult and dangerous job than did the military as part of Interfet. They were unarmed and served there during the height of militia harassment and violence in the lead up to the 30 August poll and afterwards in the systemic destruction of the territory. Indonesia, which demanded and got responsibility for maintaining security in East Timor during the UNAMET period, abjectly failed in fulfilling that responsibility. There are obviously lessons to be learnt from this experience and the Australian Government should consider not acceding to such deployments in the future where the United Nations does not have responsibility for the security of its mission and where security arrangements are unlikely to be satisfactory.

United States role in East Timor

3.49 The United States had an important role to play in the processes that led to East Timor gaining its independence. Mr Alan Dupont emphasised this point in evidence to the Committee:

I think it is absolutely critical for the US to remain engaged politically and to be prepared to pressure the Indonesians, if necessary, because at the end of the day the US is the world’s only superpower ... I think American political support is crucial to seeing ultimately a viable East Timorese state emerge from the ashes of the destruction of the last couple of months.⁶⁵

3.50 Professor Hugh Smith agreed that the diplomatic role of the United States had been a key one, by providing diplomatic back-up and economic clout, through the IMF and other agencies, to create the right political and diplomatic atmosphere.⁶⁶

3.51 Mr Tom Uren drew attention to the change in American policy toward East Timor. From 1975 until the Dili massacre, Indonesian actions in the territory had been accepted without question. Following that massacre, the Congress and Administration became concerned about human rights abuses and this changed to outright support for independence after the August 1999 ballot.⁶⁷ Mr Uren regretted that Australia had not worked to gain American support for East Timor’s independence earlier in 1999, a view also put by Mr Robert Lowry, who said: ‘I think that one of the great failures on

⁶⁴ Rod McGuirk, ‘UN to award Timor medals to all Aust police Timor’, *AAP*, 14 October 2000.

⁶⁵ Mr Dupont, *Committee Hansard*, 24 September 1999, p. 626.

⁶⁶ Professor Smith, *Committee Hansard*, 24 September 1999, p. 599.

⁶⁷ Mr Uren, *Committee Hansard*, 4 November 1999, p. 767.

ANNEXURE B –

Letter from Senator Chris Ellison to PFA CEO:



SENATOR THE HON. CHRISTOPHER ELLISON

Minister for Justice and Customs
Senator for Western Australia
Manager of Government Business in the Senate

22 JUN 2006

Mr Mark Burgess
Chief Executive Officer
Police Federation of Australia
Level 1
21 Murray Crescent
GRIFFITH ACT 2603

Dear Mr Burgess *Mark,*

I am pleased to advise that at a meeting on 21 February 2006, Federal Cabinet agreed to the amendment of the *Safety, Rehabilitation and Compensation Act 1988* effective retrospectively to 1 July 2004, to provide compensation and rehabilitation benefits commensurate to those provided to Defence Force personnel. Therefore, it is anticipated that a suitable Bill will be introduced into Federal Parliament in the Spring Sitting 2006, with passage foreshadowed for the Autumn Sitting 2007.

In relation to the current mission to East Timor and prior to the new legislation, the Australian Government is committed to providing this same level of compensation for injuries or fatalities through ex-gratia arrangements on a case-by-case basis.

The International Deployment Group (IDG) concept is now a priority initiative of the Australian Government. I am hopeful that these initiatives will remove any impediments to participation in AFP IDG overseas missions.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Chris Ellison'.

CHRIS ELLISON
Senator for Western Australia

ANNEXURE C –

Letter from Minister Joe Hockey to Senator Marise Payne:



Hon. Joe Hockey MP
Minister for Employment and
Workplace Relations
Minister Assisting the Prime
Minister for the Public Service

Senator Marise Payne
Senator for New South Wales
PO Box CC18
PARRAMATTA NSW 2123

Parliament House
Canberra ACT 2600
Australia
Telephone (61 2) 6277 7320
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joe@joehockey.com

Dear Senator

22 MAR 2007

Enhanced workers' compensation benefits for Australian police force members on overseas hazardous missions

Thank you for your recent letter concerning the proposed amendments to the *Safety, Rehabilitation and Compensation Act 1988* to provide enhanced benefits for members of Australian police forces while on designated overseas hazardous missions.

You advised that you have been contacted by the United Nations Police Association of Australia, which is concerned at the delay in drafting and introducing the amendments. You sought my advice as to when the amendments will be completed.

I am advised that the instructions to authorise the drafting of the required legislative amendments, which have been prepared by my Department in consultation with the relevant agencies, were sent to the Office of Parliamentary Counsel on 16 August 2006. My Department is currently awaiting allocation of a drafter so that the amendments can be developed. However, as you would be aware, the Australian Government's legislative priorities are determined by the Parliamentary Business Committee.

While development of the amendments is taking longer than anticipated, the package of enhanced benefits will be introduced with retrospective effect so that members to be covered by the arrangements will not be disadvantaged.

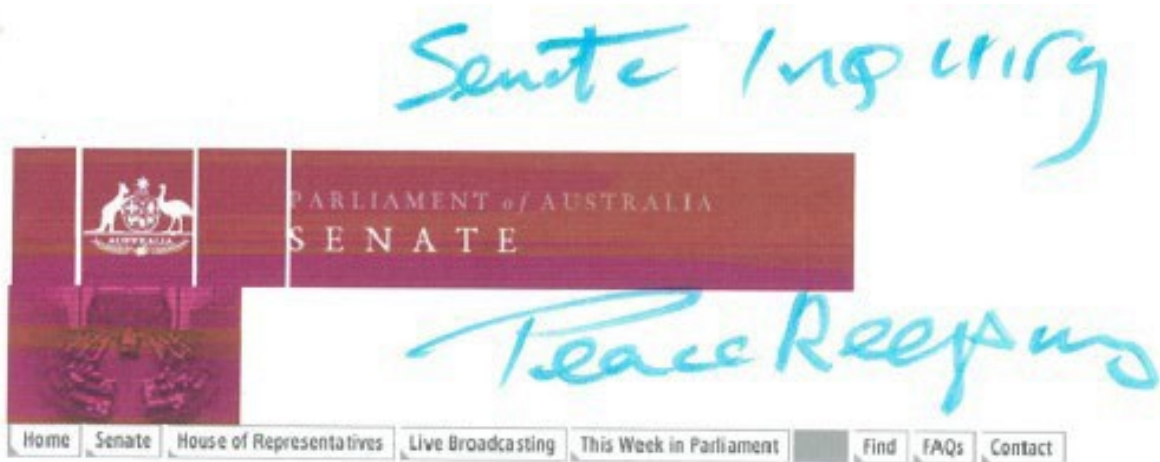
Once again, thank you for your letter. I trust my comments are of assistance.

Yours sincerely



ANNEXURE D –

Senate Inquiry | Chapter 22:



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Chapter 22

Compensation and rehabilitation

22.1 The committee notes that the compensation and rehabilitation of Australian peacekeepers was not specifically mentioned in the terms of reference. In light of the concerns raised in submissions and during oral evidence, the committee has decided to draw attention to them.

22.2 While sound training and effective health and safety programs help to minimise the risks of harm to peacekeepers, they nonetheless may encounter situations that have serious adverse effects on their wellbeing. It is inevitable that some Australian peacekeepers will require care and support on their return to Australia. In this chapter, the committee examines the legislation governing the compensation and rehabilitation of peacekeeping veterans. It provides some background to this legislation and the proposed scheme for the AFP. The committee then considers the administration of the various schemes to determine whether they are fair and effective.

Legislation

22.3 Currently, three major pieces of legislation govern the entitlements of personnel who have served on an Australian peacekeeping operation. There is some overlap in the application of the legislation.

Veterans' Entitlements Act 1986

22.4 A peacekeeper who suffers a disability or disadvantage because of service on a mission, or the family of a peacekeeper, may be entitled to compensation.

22.5 *The Veterans' Entitlements Act 1986* (VEA) provides for the payment and

other benefits to, and medical and other treatment for, veterans and certain other persons. This Act also provides for members of a peacekeeping force.^[1] Members of the AFP who served in a peacekeeping force were also covered under the VEA as 'peacekeepers', entitling them to the same disability benefits as ADF personnel.^[2]

22.6 With the commencement of the *Military Rehabilitation and Compensation Act 2004* (MRCA) after 1 July 2004, the VEA ceased to apply to deployments for Defence Force personnel who are now covered under the MRCA. Similarly, police as peacekeepers have been excluded from the Act and are now covered under the *Safety Rehabilitation and Compensation Act 1988* (SRCA).

22.7 Although the VEA continues to apply, access to it is strictly limited and is based on declarations by the Minister for Veterans' Affairs on a mission-by-mission basis.^[3] People who have had that coverage will continue to have it under the VEA.^[4]

Military Rehabilitation and Compensation Act 2004

22.8 The MRCA established a new military rehabilitation and compensation scheme to provide rehabilitation, compensation and other entitlements for ADF members and their dependants. It is a single, stand-alone legislative scheme governing compensation for injuries or conditions arising from service in the ADF. With effect from 1 July 2004, rehabilitation and compensation of ADF members who serve as peacekeepers came under the MRCA. The provisions of the MRCA apply to service injuries, service diseases and service deaths occurring after the commencement of this Act. It does not apply to injuries, diseases or deaths occurring before this date even where the entitlement is not established until after the commencement of the MRCA. This arrangement means that the provisions of the VEA and the SRCA continue to affect the determination of compensation entitlements of veterans and will do so for years to come.^[5]

22.9 The new scheme is a military scheme and AFP members are not covered under it. The compensation and rehabilitation of AFP peacekeepers continue to be covered under the SRCA.

Safety, Rehabilitation and Compensation Act 1988

22.10 The SRCA introduced a scheme of compensation and rehabilitation for persons injured in the course of their employment by the Commonwealth. For example, AusAID employees deployed to RAMSI are entitled to claim compensation for work-related injury and death under the Act. Comcare administers the SRCA and specific entitlements and benefits are listed on Comcare's website.^[6]

Proposed legislation for the AFP

22.11 As noted above, AFP peacekeepers are not covered under the MRCA but come under the SRCA.

22.12 On 27 February 2006, the then Minister for Justice and Customs, Senator Chris Ellison, announced that AFP officers serving overseas would soon benefit from the support of a police-specific compensation and rehabilitation scheme relating to dangerous foreign missions.^[7] In October 2006, the minister advised that the legislation would be available shortly.

22.13 The AFP informed the committee that the package of enhanced benefits was being developed by the Department of Employment and Workplace Relations (DEWR) in consultation with the AFP and DVA. DEWR had held discussions with the Office of Parliamentary Counsel on a preliminary draft bill which involves 'complex drafting issues and requires extensive consultation with a number of stakeholders'.^[8]

22.14 The AFP stated that the new provisions would 'ensure AFP members receive benefits comparable to those provided to ADF members on like overseas missions'. Furthermore, it was of the view that any delay in the enactment of the bill would 'not prejudice any AFP beneficiaries, as the scheme will be backdated to 1 July 2004'.^[9]

22.15 Both the Police Federation of Australia (PFA) and the United Nations Police Association of Australia (UNPAA) expressed strong reservations about the proposed legislation, especially the suggestion that the legislation simply be an amendment to the Safety, Rehabilitation and Compensation Act.^[10] They argued that any legislation to cover police should be a stand-alone act owned and controlled by the Justice Minister in an identical fashion to the Military Rehabilitation and Compensation Act being owned and controlled by the Minister for Defence. They also suggested that the Department of Veterans' Affairs have responsibility for administering it.

22.16 The AFP informed the committee that the government had noted the views of the PFA and the UNPAA on the machinery of government issues, and would consider them in reaching its final decision.^[11] It also indicated that the 2006–07 Budget Papers provide for the administration of the amended SRCA to come under DVA. According to the AFP, \$6.1 million over four years (including \$0.4 million in capital) would be provided to DVA for this initiative, with this funding to be 'offset by reductions in the current administrative costs of COMCARE (\$5.8 million over four years)'. In the AFP's view, 'This is an appropriate arrangement'.^[12]

New South Wales Police

22.17 The PFA and UNPAA asserted that the NSW Police had declined to agree to the secondment of their police while the matter of a police-specific workers compensation and rehabilitation scheme remained unresolved.^[13] The AFP responded that this issue 'has not adversely affected IDG's ability to recruit staff for deployments. It is a barrier only to the participation of NSW Police in AFP peacekeeping deployments'.^[14]

Committee view

22.18 The committee recognises the importance of having specific legislation that would establish a rehabilitation and compensation scheme for AFP officers who serve in overseas deployments. It notes the concerns of both the PFA and the UNPAA. The committee urges the government to resolve the issue as a matter of priority.

Recommendation 28

22.19 The committee recommends that the Australian Government release a policy paper outlining the options and its views on a rehabilitation and compensation scheme for the AFP, invite public comment and thereafter release a draft bill for inquiry and report by a parliamentary committee.

Processing claims

22.20 The APPVA raised concerns about the way in which claims are processed. It was of the view that DVA case officers, who investigate claims for peacekeeping veterans, have 'a distinct lack of understanding of the environment' in which ADF members have served.^[15] DVA informed the committee that it has not undertaken any agency-wide survey of its staff's experience with, or knowledge of, the operations of the ADF.^[16] Mr Johnson advised the committee:

A number of our staff are former Defence Force personnel or serving reservists. We do organise sessions with Defence to try to get an appreciation. We also have a fairly regular visiting program to bases to talk to people who have claims or may be thinking about putting in claims under the various pieces of legislation that we administer. And we do have regular contact with ex-service organisations, both in our state locations and at the national office, which bring various points of view to us on how we process claims and how we can improve processes.^[17]

22.21 The APPVA recommended that 'DVA Staff investigating claims of Peacekeeping veterans undergo an education program in order to be provided [with] information of the environmental conditions experienced by Peacekeepers'.^[18] Mr Johnson indicated that the department would have no concerns about the suggestion to have some sort of education program for staff to provide them with background in the sorts of conditions experienced by peacekeepers. He said:

We actually have done that. We have invited various people who have had various experiences in the Defence Force to speak to officers in the department and, as I said, we have very regular contact with the Australian Defence Force on what is happening, deployments, OH&S issues and those sorts of things. ^[19]

22.22 Mr Paul Copeland noted and approved of an initiative to help DVA staff gain a better appreciation of the conditions under which ADF members serve.^[20]

Committee view

22.23 The committee notes the criticism that DVA case officers do not

adequately appreciate the environment in which Australian peacekeepers work. It notes the measures taken by DVA to make their staff familiar with the environment in which ADF peacekeepers may operate and encourages DVA to continue with these initiatives. The committee also draws DVA's attention to APPVA's recommendation that 'DVA Staff investigating claims of Peacekeeping veterans undergo an education program in order to be provided [with] information of the environmental conditions experienced by Peacekeepers'.[\[21\]](#)

Onus of proof

22.24 The APPVA also expressed concerns about the method of assessment and the onus of proof:

...the Reasonable Hypothesis is used for Peacekeeping Operations in claims under the [Veterans'] Entitlement Act 1986 (VEA), Safety Rehabilitation and Compensation Act 1988 (SRCA), and the Military Rehabilitation & Compensation Act 2004 (MRCA), there has been a continuing demand by Case Officers to provide medical evidence on the Balance of Probability, hence placing the onus of proof on the Peacekeeper claimant.[\[22\]](#)

22.25 DVA explained the approach taken by officers in assessing claims. It stated:

Under the Veterans' Entitlements Act and the new act, the Military Rehabilitation and Compensation Act, there is no onus of proof on the member, either serving or former. The investigation is all with the department; the responsibility for investigation is with the department. It is somewhat different under the Safety Rehabilitation and Compensation Act, but under the VEA and the MRCA the responsibility is with the department.[\[23\]](#)

22.26 The APPVA recommended an amendment to the SRCA to reflect the nature of service of peacekeeping veterans, 'by providing a "beneficial approach" and placing the onus of proof under the reasonable hypothesis'.[\[24\]](#)

Committee view

22.27 The committee notes the APPVA's recommendation for the government's consideration regarding the SRCA and placing the onus of proof under the reasonable hypothesis.

Medical records

22.28 The APPVA suggested that 'the lack of understanding of DVA Claims Assessors and Supervisors is due to the fact that for most peacekeeping operations foreign countries provide the Medical treatment'. It stated that this situation has made it difficult to obtain medical evidence and documentation to support the peacekeeping veterans' claim which, it argues, 'exacerbates the veterans' anxiety as they fight long battles for their Entitlements under the respective acts'.[\[25\]](#) Mr Copeland said:

The hardest thing about the documentation is that we do not have Australians over there providing the medical or hospitalised support. It is actually done, in some cases, by Third World countries. They do not have such a rigid recording system as we have for our Australian Defence Force. Realistically, it is a case of chalk and cheese. For example, if you have a head injury, you will probably be seeing an Indian doctor and dispatched back and there will be nothing on your record, but you have sustained a head injury. That was the case for one soldier. He was sent to Thailand and they could not find him for six weeks. He was actually in a Thai military hospital.

These are the sorts of things that happen. It is not the cut and dried recording system that one would expect.[\[26\]](#)

22.29 The Regular Defence Force Welfare Association also raised the problem of the availability of medical treatment records when health care is provided by a non-ADF health service:

Such services could be provided by a UN military health service or a UN contractor. We understand that some veterans have had problems establishing their entitlement to a DVA entitlement in that medical records could not be obtained or those that were available were deemed inadequate. In any such case the burden of proof should not rest with the individual.[\[27\]](#)

22.30 The Australian Veterans and Defence Services Council (AVADSC) agreed with the view that medical records had been inadequate and was an area of concern. It recommended: 'More care and handling of all medical documents and member check the records before leaving the location'.[\[28\]](#) Noting the difficulty obtaining appropriate medical documentation for given illnesses or injury on peacekeeping operations, which is nominally provided by another country as part of the multi-national force, the APPVA suggested:

...it would be beneficial to the Australian veteran to have his/her claim considered for acceptance by the Repatriation Commission under the VEA; or the Military Rehabilitation Compensation Commission (MRCC), under the MRCA. This has been a difficult process to provide such evidence to DVA in order to have claims accepted.[\[29\]](#)

22.31 Mr Johnson, DVA, said that the evidence presented to the committee about incomplete medical records of Australian peacekeepers was the first time he had heard of this complaint. He indicated that 'from time to time there are issues around accessing a particular medical record that relates to a claim, but that is a more general issue than relates just to peacekeeping'.[\[30\]](#) He said:

When we receive a claim, we seek service records and relevant medical records from the Department of Defence. I am not saying that sometimes there are not difficulties in sourcing relevant medical records from defence on claims that have been put forward, but I am not aware that particular issues have arisen from peacekeeping forces.[\[31\]](#)

22.32 He expected that medical records of treatment provided by medical staff

from another country 'would still go back with the Australian peacekeeping member and be part of their ongoing medical record that is held with defence'.^[32] DVA provided more detail in its answer to a written question on notice:

...some deployed health facilities provided by a number of countries (eg. US Aid Post in Camp Victory Iraq) do not hold a record of any treatment given to members of other nations' forces. Any documentation generated is given to the individual and it is then the individual's responsibility to ensure that it is put into his or her medical record.^[33]

22.33 It explained further:

Until recently, ADF members did not deploy on operations with their Unit Medical Record (UMR), so there was a reasonable likelihood that some record of treatment would not be reflected in their UMR. This would especially be the case if the treatment was provided early in the deployment, with the record often being retained by members on their person for considerable periods of time.

Whether to deploy with the UMR is now decided on a case by case basis (eg. ADF members now deploy with the UMR to the Middle East Area of Operations). Special Operations Command is currently developing an *Operational Health Record* in the form of a small booklet in a plastic wallet which could be issued to the individual. Key information would be transposed from the UMR, with details of all treatment provided in the Area of Operations being recorded in the booklet. The booklet would then be placed on the UMR on return from the operation and would form part of the permanent record.^[34]

22.34 With regard to police deployed on a peacekeeping operation, the AFP informed the committee:

Copies of medical records created by other supporting health service agencies during peacekeeping operations (such as United Nations Medical Units, or contracted services such as Aspen Medical), are sent to AFP Medical Services for inclusion in the AFP medical record relating to the member; these records are likewise accessible upon request to the AFP PMO.^[35]

22.35 It should be noted that in 2004, the committee inquired into the health preparation arrangements for the deployment of ADF personnel overseas. It found the state of service and medical records had declined in recent years to 'such a state that claimants can have little confidence as to their accuracy or completeness'.^[36] It went further to state that the maintenance of health records for serving personnel had become 'chaotic due to incomplete information and shared responsibility'.^[37]

Committee view

22.36 The committee believes that agencies involved in peacekeeping operations must develop better procedures for the management of health records. It also believes that the evidence presented by the various veterans' associations about incomplete medical records of ADF personnel serving in peacekeeping missions requires further investigation by both Defence and DVA. Evidence suggests that

there are shortcomings in relation to the records of personnel who have received medical treatment in the field. When considered in light of the committee's previous findings in 2004 about the deficiencies in health records, this evidence indicates that the ADF needs to identify the causes of the shortcomings and rectify them.

Recommendation 29

22.37 The committee recommends that the ADF commission an independent audit of its medical records to determine the accuracy and completeness of the records, and to identify any deficiencies with a view to implementing changes to ensure that all medical records are up-to-date and complete. The audit report should be provided, through the Minister for Defence, to the committee.

Recommendation 30

22.38 The committee recommends that the Australian Government requests ANAO to audit the hardware and software used by the ADF and DVA in their health records management system to identify measures needed to ensure that into the future the system is able to provide the type of detailed information of the like required by the committee but apparently not accessible.

Recommendation 31

22.39 The committee also recommends that Defence commission the Centre for Military and Veterans' Health to assess the hardware and software used by Defence and DVA for managing the health records of ADF personnel and, in light of the committee's concerns, make recommendations on how the system could be improved.

22.40 Although no concerns were raised about AFP medical recordkeeping, it may be timely for the AFP to conduct an audit of the health records of its members deployed overseas to determine whether there are any short-comings.

22.41 Another matter that was not covered in the terms of reference but which drew significant comment from submitters was the recognition given to Australian peacekeepers. The following and final chapter in this part of the report looks at Australian peacekeepers and how their service is recognised.

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ANNEXURE E –

Letter from AFP Assistant Commissioner Paul Jevtovic to Military Compensation Review Director Luke Brown:



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HUMAN RESOURCES
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www.afp.gov.au
ABN 17 961 831 143

29 June 2009

Mr Luke Brown
Director Military Compensation Review
Department of Veterans' Affairs
PO Box 895
Woden ACT 2606



Dear Mr Brown

AUSTRALIAN FEDERAL POLICE SUBMISSION TO THE REVIEW OF MILITARY COMPENSATION ARRANGEMENTS

Thank you for the opportunity to provide a submission to the Review of Military Compensation Arrangements (the Review). This submission only addresses the Term of Reference "Consider the suitability of access to military compensation schemes for members of the Australian Federal Police who have been deployed overseas."

Background

In 2006, the previous Government agreed to provide Australian Federal Police (AFP) serving overseas in high risk missions access to comparable rehabilitation, health care and compensation benefits to those available to Australian Defence Force (ADF) personnel serving in comparable overseas deployments. The benefits were to be provided through amendments to the Safety, Rehabilitation and Compensation Act (SRCA).

Drafting the necessary legislative amendments to the SRCA proved to be extremely complex and the exercise was suspended in 2007.

Discussion of the Options Identified in the Terms of Reference

As mentioned above the necessary legislative amendments to the SRCA was seen as extremely difficult and likely to increase the complexity of the SRCA significantly. The AFP is of the view that nothing has changed since 2007 and this option continues to be unworkable.

The option to include coverage for the AFP overseas missions under MRCA is also not preferred by the AFP. Historically, AFP missions covered under the Veterans' Entitlements Act 1988 (VEA) were classified as being members of a Peacekeeping Force or an Australian contingent of a Peacekeeping Force. With AFP missions increasingly undertaking wider high risk roles such as law enforcement in civil disorder and counter-terrorism, the classifications of military service (war-like and non-war like) to which the MRCA applies is becoming less relevant to AFP overseas deployments.

When AFP deploy overseas in law enforcement roles it is important that these missions are not perceived as a military force. Accordingly, it would be preferable for compensation benefits for AFP overseas missions not to be provided under an Act providing compensation coverage to military personnel. Furthermore, incorporating a service category more in keeping with high risk law enforcement type activities could be viewed as moving the MRCA away from being a military specific Act. The AFP's preliminary analysis is that while the amendments to the MRCA necessary to include AFP overseas deployment would be less complex than those required to amend the SRCA, nonetheless they would not be insubstantial and would lead to a more complex MRCA.

The AFP's preferred option is to develop a stand-alone compensation scheme for AFP high risk overseas missions. The stand-alone scheme would incorporate MRCA benefit provisions where appropriate. Our view is that this option provides the most straight forward legislative solution and retains the MRCA as a military specific Act covering all military service.

The current position of not having in place long-term compensations arrangements for AFP overseas missions is creating logistical difficulties for AFP. Two state police forces are refusing to provide officers to serve in overseas missions until compensation arrangements are implemented. This is impinging on the AFP's ability to maintain its heightened operational tempo. In view of this situation, the AFP would appreciate if this Term of Reference could receive early consideration and not await the presentation of the final report in March 2010. This would enable work to proceed on the introduction of long-term compensation arrangements.

I can confirm the Deputy Prime Minister, consistent with the current Government's pre-election commitment, has separately asked the AFP and the Department of Education, Employment and Workplace Relations to bring forward a submission for a stand alone compensation and rehabilitation scheme for police appointees in high risk missions overseas. The submission will ideally be available for Government consideration early in the new financial year and it is intended from an AFP perspective that it will be consistent with this submission to the Review.

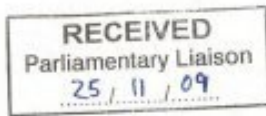
Should you require, I would be pleased to meet with you and or the Steering Committee for the Review to further discuss the AFP's position.



Assistant Commissioner Paul Jevtovic APM
National Manager Human Resources

ANNEXURE F –

Letter from Minister Brendan O'Connor to UN Police Association of Australia Commander Webber:



THE HON BRENDAN O'CONNOR MP
Minister for Home Affairs

MC09/12209

Commander [Ret] Norman Webber
National Research
United Nations Police Association of Australia
PO Box 179
TEA GARDENS NSW 2324

Dear Commander Webber

Thank you for your correspondence dated 30 July 2009, concerning compensation and rehabilitation arrangements for Australian Police serving in high risk overseas missions.

The Australian Federal Police (AFP) has written to the Chair of the review into the Military Rehabilitation and Compensation Act, Mr Ian Campbell PSM, seeking early consideration of this aspect of their work. The AFP has advised Mr Campbell that the preferred outcome is a separate legislative mechanism for AFP overseas missions. I support this approach and the goal of equitable compensation arrangements for Australian police officers serving overseas.

I understand that yourself and Mr Denis Percy from the United Nations Police Association of Australia, along with the Chief Executive Officer of the Police Federation of Australia, Mr Mark Burgess, were advised of the AFP's intentions and work completed to date on this important issue.

I expect that the review will result in improved arrangements and invite you to stay in touch with my office. This matter is a priority for both the Government and the new Commissioner of the Australian Federal Police. If you wish to discuss these issues further, please do not hesitate to contact my Chief of Staff, Ms Julie Ligeti.

Thank you for your ongoing interest in the welfare of police officers serving overseas.

Yours sincerely

Brendan O'Connor