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10 May, 2023

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Submission to Inquiry - Mr Peter Mills

Part 1 – Name of Inquiry

Name of Inquiry *

Medallic recognition for service with Rifle Company Butterworth.

Part 2 – About the Submitter

Title or Rank *

Mr

Given Names *

Peter

Surname *

Mills

Post-nominals (if applicable)

Street Number and Name *

[REDACTED]

Suburb *

[REDACTED]

Postcode *

[REDACTED]

[REDACTED]

Email Address: *

[REDACTED]

Primary Contact Number *

[REDACTED]

Secondary Contact Number

[REDACTED]

Is the Submission on behalf of an organisation? If yes, please provide details:

Part 3 – Desired outcome

Provide a summary of your submission:

Additional submission by Peter John Mills (Submission 120b) into medallic recognition of RCB Service. This submission is in response to the Department of Defence submission 096d dated 28 April 2023.

Part 4 - Your submission and Supporting Documentation

File Attached: Peter-John-Mills-Submission-to-DHAAT-10May2023.pdf

Part 5 – Consent and declaration

✓ I consent to the Defence Honours and Awards Appeals Tribunal making my submission publicly available.

✓ I also consent to the Defence Honours and Awards Appeals Tribunal:

- using information contained in my submission to conduct research;
- providing a copy of my submission to a person or organisation considered by the Tribunal to be appropriate; and
- providing a copy of my submission to a person or organisation the subject of adverse comment in the submission;
- using content in my submission in its report to Government.

The Tribunal will decide which person or organisation is appropriate, and this may include:

1. persons or organisations required to assist with the inquiry; and
2. persons or organisations with an interest in the inquiry.

✓ I declare that the information I have provided is correct.

Name

Peter John Mills

Date

10/05/2023

Mr Peter Mills

Signed by Mr Peter Mills

Signed on: 10 May, 2023

[Redacted]

LEGALLY SIGNED USING
WPsignature

[Redacted]



[Redacted]

[Redacted]
Mr Peter Mills

[Redacted]



[Redacted]

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[Redacted]

Supplementary Submission of Peter John Mills (Submission 120b) to the Defence Honours and Awards Appeal Tribunal in relation to ‘Medallic recognition for service with Rifle Company Butterworth’ (RCB) for service in Malaysia between 1970 and 1989.

I would like to thank the tribunal for allowing additional submissions to be made until 15 May 2023. I would like to take this opportunity to make some comments that I did not address in my two previous submissions.

I acknowledge that the tribunal terms of reference states:

“The Defence Honours and Awards Appeals Tribunal (the tribunal) is directed to inquire into issues pertaining to medallic recognition for service with Rifle Company Butterworth...”

“...The Tribunal is to determine its own procedures, in accordance with the general principles of procedural fairness...”

“...the tribunal may conduct its own research, interview such persons as it considers appropriate and consider material that is relevant to these Terms of Reference...”

“In making its findings and formulating its recommendations, the Tribunal is to have regard to the integrity of the Australian honours system and identify any consequential impact or make findings or recommendations upon that system...”

I make these additional comments regarding deployments of Rifle Company Butterworth (RCB) infantry companies to Air Base Butterworth (ABB) from 1970 to 1989:

- The Australian Government and the Department of Defence Chiefs of Staff willingly sent thousands of infantry soldiers to defend the ABB, the RAAF assets deployed in a foreign country, and the RAAF personnel and their families from a known enemy actively engaged in an internal conflict with the Malaysian government (the CT’s, belligerents, foe, enemy).
- The enemy was identified in **ONE** document relating to the standing orders for RCB namely HQ FF COMD Staff Instruction 2/79 dated 6 July 79 (pages 66 to 110) of Submission 096b.
- Department of Defence has failed to provide any documents that relate to the deployments from 1970 to 1979 and from 1980 to 1989.
- Of relevance, would be the HQ FF COMD Staff Instruction Standing Orders for RCB deployments commencing in 1990 which would reveal a clear difference in the nature of the service.
- There is one submission to the Tribunal from an RCB veteran who was deployed to ABB before 1989 and after the signing of the peace accord by the Malaysian government with the CTO in 1989.
 - He identifies the difference – no Ready Reaction Force, no Quick Reaction Force duties, no ROE, and no live rounds of ammunition. He was there for training.
 - The question that needs to be addressed is ‘what changed?’
- Since the deliberate lie relating to the purpose of the deployments initiated by the Labor Government of Gough Whitlam in 1973, Australian Veterans who served in RCB have been denied recognition of their service by an ongoing coverup lasting over 50 years.
- Previous reviews, inquiries and requests by individual veterans have been met with the same tired line from Defence that we were sent to Malaysia for training and the service was normal peacetime service.
- These reviews did not have access to the wealth of documentary evidence which has been collected by the RCBRG over the last thirty years which is now before the tribunal.

- The Department of Defence submission includes copies of previous reviews and inquiries into RCB service with no analysis of how decisions were made and what evidence was provided to support that decision.

I have read the submissions to the inquiry and it is clear that all veterans from multiple infantry companies over the period 1970 to 1989 were told the same thing prior to deployment:

- we were being sent to Malaysia to defend ABB from the communist insurgency threat;
- to provide a QRF to defend the joint assets on the base (Malaysian and Australian); and
- to undertake the duties of the Malaysian Security Forces, who were on active service, in the defence of ABB as the Malaysian Air Force were actively engaged in fighting the CT's from the largest airbase in Malaysia at the time.

I have listened to the three days of public hearings held by the DHAAT in relation to this matter.

From a personal observation of these proceedings, it was apparent that:

- the Department of Defence thought they could attend the tribunal and provide the same documents from previous reviews/inquiries;
- spout the same old story of 'it was peacetime service the same as garrison duty in Australia'; and
- the tribunal would accept their words without any supporting documentation.

The tribunal, veterans and the Defence representatives spent hours discussing the differences between WARLIKE, NON-WARLIKE and peacetime service. The tribunal chair stated that the tribunal was adopting the 1993 definitions of WARLIKE and NON-WARLIKE service in its deliberations relating to medallic recognition of service for RCB. Defence representatives participated actively in these discussions. At the end of the third day of public hearings the chair advised that submissions to the inquiry would close on 30 April 2023. One year after the inquiry commenced.

I would now like to make comment on the '**elephant in the room**', Department of Defence Submission 96d dated 28 April 2023.

The Department of Defence has provided no documentary evidence to support their argument that the RCB deployments from 1970 to 1989 were for training. The RCBRG has provided hundreds of documents to the Tribunal to support the request for medallic recognition in the form of the Australian Active Service Medal (AASM). Many of the documents have high security ratings which defies the assertion that the role of RCB was for training purposes only.

Defence submission 96d page 2 states:

"...The assessment and classification of nature of service occurs prior to or shortly after the commencement of an ADF operation..."

- The deployment of RCB infantry personnel to defend Australian assets in a Malaysian Air Force base was a fluid situation which commenced in 1970 with the deployment of ANZUK forces to defend the airbase and changed with the withdrawal of British and New Zealand forces from Malaysia and Singapore in 1973. The newly elected Labor government of Gough Whitlam had already made promises to the Australian public regarding the withdrawal of Australian forces from South-East Asia.

- I believe that the “assessment and classification of nature of service” for RCB veterans was not undertaken prior to or shortly after the deployments.
- Another administrative error affecting RCB veterans.
 - If this is not the case, where are the Department of Defence documents and assessments relating to the nature of service for RCB personnel created in 1970?

“...consideration of medallic recognition only occurs at a later date and ultimately is a **DISCRETIONARY DECISION** (authors emphasis) based on consideration of multiple relevant factors...”

- The use of ‘discretionary decision making’ can give rise to allegations of corrupt conduct.
- When making decisions:
 - decision makers need to act in good faith and for a proper purpose;
 - act reasonably;
 - make decisions based on supporting evidence; and
 - give proper consideration to the merits of the case.

Defence submission 96d page 3 states:

“...The consideration of medallic recognition may include a number of relevant factors including a nature of service classification, the number of ADF members involved, the duration of an operation, existing medallic recognition for that service such as foreign awards and/or existing Australian awards which could be applied to that service...”

- Why haven’t the Department of Defence provided the Nature of Service Branch report identifying the discretionary decision making that occurred in relation to the medallic recognition of service for RCB including the factors identified above?
 - Was this even conducted?
 - Department of Defence have just relied on previous inquiry/review documents which does not provide this detailed analysis.
 - However, discretionary decision making relies on impartiality by gathering all the relevant facts to make an informed, objective, and fair decision.
- Decision making should be transparent with the creation and maintenance of accurate records.
- The decision maker should be accountable for the how they utilise their discretion.
 - Where are the records associated with this discretionary decision making?
 - Who was the decision maker?
 - What facts/evidence/records formed part of the decision-making process?
 - Did the decision maker review all the documents located by RCBRG as part of this process or were they ignored?

Defence raises the issue of “the number of ADF members involved” and “the duration of the operation”.

- RCB veterans should not be penalised for appropriate recognition of service due to the numbers involved, flow on effects (RAAF personnel) and the length of the operation.
- The Government and Department of Defence chose to send infantry companies to defend ABB on a continuous basis for 19 years with ROE that allowed the use of lethal force.
- A decision could have been made to withdraw RAAF assets from Malaysia in the early 1970’s, whereby we would not be involved in these discussions 50 years later.

- The Department of Defence made a decision not to go down this option, instead placing military personnel (Army and RAAF) and families in harm's way.

"...An assessment or an independent test of service against the definitions of "warlike", "non-warlike" or "peacetime" does not occur as part of the consideration of medallic recognition..."

- Given the statement above, what was the purpose of the DHAAT public hearing discussions on 3 and 4 April 2023?
- Why did the Department of Defence representatives participate in the discussion regarding the definitions if this is not used as a criterion for medallic recognition?
- The Chair of the Tribunal was quite clear that the Tribunal was going to utilise the 1993 definitions of "warlike" and "non-warlike" as part of their process for medallic recognition.
- Why did Defence representatives not speak up at the time of the discussions?

From a lay person's perspective, it would appear that the Department of Defence were concerned that the Tribunal were going to make a determination in the veteran's favour based on all the veteran submissions (uncontested by the Department of Defence) and the substantial number of Department of Defence records supplied by the veterans themselves to support their claims.

Then two days before submissions close the Department of Defence now state the definitions are not used to determine medallic recognition.

- This was never raised by Defence in the hearings.

Where does this now leave the Tribunal?

- Regardless of the outcome one side or the other will cry foul!

If the Tribunal decides:

- in the veteran's favour, will we have another debacle whereby the Defence officials actively sabotage the result with no outcome for the veterans, as they will state to the Minister that the report was based on a flawed use of 1993 definitions of "warlike" or "non-warlike service".
- not to upgrade the service of RCB veterans to "war-like" service can we be confident that the process is fair, equitable, impartial, and based on the evidence provided.
 - The Department of Defence have not provided any documents or material to back up their stated position of "peacetime" service.

In relation to the Tribunal terms of reference:

- "In making its findings and formulating its recommendations, the Tribunal is to have regard to the integrity of the Australian honours system and identify any consequential impact or make findings or recommendations upon that system..."

The Tribunal now must report on the integrity of the honours and awards system.

- On face value it appears that there is no integrity to a system which is based on discretionary decision making by a public servant in the NOSB, who has probably never served in the military or even knows about conditions of service 50 years ago or what happened on the ground during deployments, where numbers and cost become the over-riding factor.
- How do you report on discretionary decision making whereby some veterans are disadvantaged by the actual process and their service is not recognised.
- Applying current standards to service which occurred 50 years ago is grossly unfair.

- Indeed, those making the decisions would not have been serving members of the Defence force when RCB was deployed to ABB.
- The lack of Army documents relating to this service is also concerning.
- How do you deploy thousands of army personnel to a country actively involved with a communist insurgency threat, undertaking a role that should have been performed by Malaysian Security Forces who were on active service, and there is virtually no documented evidence to support the role?

The Department of Defence has failed to address the matrix provided by the RCBRG.

- Why?
- Is this because the system is compromised?
- The NOSB are happy to approve medal upgrades to AASM when the number of affected personnel is small.
- Defence Submission 096b page 16 – 21 Annex A the “Background to Review of Rifle Company Butterworth Nature of Service” reveals that RCB service was compared to other operations specifically Vietnam, Malaysia in 1966 and Korea post 1953 when making the determination.
- However, Department of Defence states that this does not happen and that is their reason for not addressing the matrix.

Interestingly, previous decisions of the Tribunal by individual veterans in relation to an upgrade to the AASM have found the applicants service at Butterworth (Mitterer) “...has not been subject of a declaration by the Governor-General under the relevant regulations. Consequently, he did not render service in a prescribed operation entitling him to the award...” and (Fulcher) “...has not been the subject of a declaration by the Governor-General under the relevant regulations...” (Defence Submission 096 page 10).

- These decisions did not appear to address the requirement for an assessment against the 1993 definitions now being used by the Tribunal.
- So why is this a requirement now?

I do not envy the Tribunal position in reporting on the integrity of the Honours and awards system. However, I look forward to reading the report and the recommendations made to a flawed process.

It is my assertion that the Department of Defence representatives have been deliberately obstructive and have failed to participate in this inquiry in an ethical, impartial, and objective manner and their decision making is based on NUMBERS and COST rather than treating the evidence which has now been located with a fair and impartial mind.

As veterans, we can only hope for a fair and impartial assessment of the facts and evidence provided to support the upgrade of service for RCB personnel during the period 1970 to 1989 to warlike service to qualify for the Australian Active Service Medal.

Thank you for your time and consideration into this extremely difficult and complex situation.

Regards

Peter John Mills