

**EDITED DRAFT OF THIRD SUBMISSION TO THE ROYAL COMMISSION (RC)
INTO DEFENCE AND VETERAN SUICIDES DATED 13TH SEPTEMBER 2023**

by former Major Allan K Warren

1. My two previous submissions record my concerns, experience and knowledge about the correlation between government abuse of power and the trauma it inflicts on affected individuals and also the community at large. I now want to bring those two submissions into context of this RC's Terms of Reference (ToR) and I quote:

“(p) opportunities to promote understanding of suicide behavior and risk factors, and protective factors, within the ADF and veteran communities and the broader Australian community.”

The normative variable factors that contribute to suicide in the community are separate from factors unique to Defence and veterans. However, within the intent of ToR(p), those community factors are also relevant to suicidality within the ADF and veteran population. They are in effect cumulative factors for ADF and veterans' trauma including suicidality.

2. Since my last submission of September 2022 there have been significant media reporting of key officials' abuse of power, malfeasances, corruption and potential criminality. Robo-debt RC findings and immigration detention are two such matters. Also reported is the trauma it has caused innocent members of the public resulting in health problems and a few suicides. It ought to be blatantly obvious that government abuse of power and official corruption are serious risk factors that cause suicides and suicidal behaviours. The simple solution, as a protective measure, is a genuine crackdown on misfeasance by key offices in all three tiers of government – local, state and federal. This RC's

main objective is to identify causal factors of suicidality unique to Defence and veterans. However, it is obvious that factors external to Defence are also involved in veteran suicidality.

3. The case of former navy chief petty officer, Roque Hammal is a case in point. He has been on suicide watch under the aegis of your RC. His trauma is ongoing because of improper decision making, abuse of power and denial of basic human rights by the Central Coast Council (CCC) of NSW. His multiple ministerial representations, GIPA (Fofl Act) applications and other representations have not dissuaded CCC from its intent not to treat Mr Hammal properly and fairly. In my opinion, CCC's intent is to 'break' him despite being aware of his sensitive mental health status. By doing so CCC can cover up what it has done to him and continues to do to date.
4. There are untold numbers of cases such as Mr Hammal's throughout Australia. Mr Hammal's GIPA Act application to CCC to obtain a copy of personal information held against him by CCC is being thwarted by its improper decision making. In my own case, former Governor-General of Australia, MAJGEN M Jeffery, corruptly handled my 1990 FOI Act application for access to my army history records relating to my constructive dismissal from Army in 1981. As then Deputy Chief of Army, he lied to certify that he that he knew all my relevant records had been lost or destroyed, knowing they were extant. Key officials later justified his corruption as merely a peripheral matter at the edge of democracy.
5. MAJGEN Jeffery's actions were disgusting and cowardly. They were subversive of the rule of law. He was functioning, not at the peripheral but at the core of democracy. His behaviour stands as a corrupt, arrogant and hypocritical act. Full details of MAJGEN Jeffery's behavior can be viewed at Google search, The case of ex-Major Allan Warren, then scroll down to the article titled, "Effectiveness of Australia's Military Justice

System”, submission P5 Documents showing abuse of FOI Act”. It is 3 pages with 4 explanatory diagrams.

6. In respect to this RC’s TofR (p), relating to “the broader Australian community”, I draw your attention to the 2nd article on the above web site. It is titled “More Vicious than Virtuous”. It is an attempt to give a perspective, based on what I have had to endure, on the nature of our institutions, the power of officials and our civil society. It is 27 pages long. I do not expect members of this RC to suffer reading it all. However, below is an edit copy of the first few pages that I believe are relevant to this RC:

MORE VICIOUS THAN VIRTUOUS

“Professor Martin Krygier's model of a civil society is one in which the rule of law as opposed to law as an institution, provides for a strong state¹. It is a normative model against which he develops comparative statements between Eastern Europe, in particular Poland and to a lesser degree Australia, cited as 'a privileged provincial liberal democracy'. In explanation of his thesis he argues the rule of law undergirds a society. It is its infrastructural strength because it is able to discipline by restraint and moderation the use and abuse of power. It is able to institutionalize channels of power to entwine the state, politics and civil society in what he calls "mutually reinforcing virtuous circles". His model supports the consequences of a society being "thickly institutionalized" because it generates an ethos in the ways citizens and institutions can behave and be expected to behave towards each other. This makes for its 'civility' grounded in the mutual trust that comes from the rule of law if it "conforms to the values of predictability, regularity, restraint, precision, publicity and prospectively".

Alternatively interactions between individuals, society and its institutions, where there is either a lack of or absence in, an infrastructural strength leads to fear, distrust and violence. These are interactions of what Krygier calls a distinctly vicious kind. Consequently, there is a need for both the state and society to maintain

¹ Professor Martin Krygier Professor of Law and Justice, School of Global and Public Law, University of New South Wales.

an eternal vigilance of its rule of law. Perhaps it's his passion and love for Poland and its people that's encoded in the warning: "We simply don't know how quickly uncivil disrespect for civilised and civilising institutions will come to erode or deform them, and then deform us. It would be better if we never found out".

But it is with similar passion that I would now apply this model to the Australian context and take up where Krygier fears to tread; into those circles of a distinctly vicious sort. This is not an attempt to discredit what Krygier has evolved. Instead his normative model provides ways of bouncing observation against, with deliberate intent to question his implications of how virtuous are those circles in Australian society, including the military?

In Australia the dominating rule of law has a comparatively short history. But it has long standing in its inheritance from eighteenth century British traditions, making up the "rules of the game". It is rooted in our "cultural baggage". It can be said to represent the heritage of an institutionalised infrastructure of a 'decent' society bonded by ethics. It is expected to work in a society in which legal institutions and legal rights are central to the moderation of the power of officials, including those elected to govern. In some respects this heritage is an evolution of the historical concepts given by Rousseau's social contract model. Rousseau warns us nothing is more dangerous to democracy than the power of private interest in public affairs and the abuse of law by government. When officials become despotic government loses its rights within the framework of the state. The question then is merely of might. Only when government treats all individuals with equity and fairness is its authority final.

In Krygier's model of a strong state, the rule of law routinely followed in the ordinary business of living must function to restrain and moderate the power of institutions over society and the individual. This is a two-way vertical dimension. It exists because officials in institutions are routinely challenged by the rule of law itself. Such law controls the way in which the institutions interact with the individual. It also provides individuals with a way to penetrate the institutions of the state, including government and act with some autonomy. This vertical dimension is the underpinning for societal and individual confidence and trust in its relationship with the government. It is this belief system, encoded in an individual's and society's behaviour towards the government that provides continuity and stability in a

civil society. Its added strength lies in its meshing with rather than contradiction to or its irrelevance to "intuitive law" i.e. how people think about and organize their everyday lives. It is the 'how' the rights of individuals are known to be protected from the power of officials. Challenge and/or competition to institutions, including officials is carried out within the known 'rules of the game' i.e. the rule of law. This rule also frees the state from despotic government behaviour(s) against its society and individuals in defence of its own survival. It is this cognitive and normative power of the rule of law throughout society that strengthens the state. Thus government is not separated from society and the individual.

Such is the theory against which comparative statements may be made about the relative strength and weaknesses of states in time and place. The premise for Krygier's theoretical model is that the strength for the state to function as a strong and stable state rests with the individual knowing and having trust and confidence in the fair and just workings of the rule of law. i.e. it is a 'bottom-up' model of societal strength and this is where the individual is at in his/her relationship with government in particular and society in general. But there is often a vast discrepancy between the theory and practice of the rule of law. Hence there can be a vast difference between the appearance of a civil society and the reality of vicious circles of violence by officials who abuse and misuse power against society and the individual.

"At a bare minimum, the point of the rule of law - and its great cognitive and normative contribution to social and political life - is relatively simple: people should be able to rely on the law when they act ... you have central elements of the rule of law when the law in general does not take you by surprise or keep you guessing, when legal institutions are relatively independent of other significant social actors but not of legal doctrine, and when the powerful forces in society, including the government, are required to act, and come in significant measure to think, within (italics) the law; when the limits of what is taken to be do-able are set by the law and where these limits are widely taken seriously- when the law has integrity and it matters what the law allows and what it forbids."

Also inherent in Krygier's model of comparative states is the notion of 'violence'. But what constitutes the kinds of violence needs to be made explicit. Easily recognised forms of violence are the kinds of military and civil unrest e.g. Poland, Northern Ireland, Philippines and

Yugoslavia. But kinds of violence by institutions against society and the individual also embraces the tyrannies of silence and connivance and/or inaction of public duty by government. Many wrongdoings by key officials are perpetrated by omissions rather than actions. Current laws against their techniques of omissions appear ineffective. It is this form of violence by rulers and officials that also has to be restrained and moderated or else its consequence is to render the rule of law within the institutionalized strength of society inoperable. Its effect is to alienate and isolate ordinary individuals from the rule of law. In a "thickly institutionalised" society such as Australia, this is made more insidious because it flows undetected simply because people do not know how widespread it is. It may be diffused, in part protected by the ever present threat of defamation laws in civil action against those whose identities are lost in the language we use to talk about "officials", "the government" or "the institution". Yet it is key officials' abuse and misuse of power entrusted to them, that is capable of eroding that which is the undergird of a civil society, its rule of law. And it is this law Krygier warns us that supposedly separates Australia from the violent experiences of states elsewhere.

When the routine, stable and predictable procedures in behaviours between individuals and officials breaks down then the rule of law is threatened. Political decency is threatened. This is when the individual loses political autonomy within a civil society. But when the accumulative experience of individuals lose confidence in the rule of law because of repetitive violation of these procedures, then the strength of a society begins to separate from government, i.e. corrupt or improper behaviours by officials alienates government from society, the individual and the state. It is the "thickly institutionalised" make-up of Australia which may well incubate its own weakness. So powerful is the threat of improper and/or corrupt behaviour by officials in government against the state that judicial adjudications on abuse of power cases in Australia repeatedly emphasise and warn of the weakness and mistrust in government that follows their corrupt or improper conduct and their maladministration.

The place of the military can be no exception to the rule of law in a strong state. It too, as an institution of the state must be restrained and moderated in its relationship with society and the individual. Herein lies the poignancy of one particular case, that of Major Allan K Warren. This case raises pertinent questions about responsibilities of 'the state' to 'the individual'. These fundamental questions are

specifically referenced to the role of the executive arm of government and its portfolio responsibility over the Army generals. In law, MAJ Warren's case stands as testimony to the breakdown and impotence of the rule of law to restrain the power and authority of the institutions of the military and government against the individual. What is even more poignant is evidence of a military network more powerful than the workings of the rule of law. Not only did that network and its military culture violate routine procedures of the rule of law within the military structures of Australia's Defence Force but it was able to render silent either by its own actions or connivance, government officials of the state, including the Governor-General.

Australians recognise the rule of law is needed but needs to be administered with integrity otherwise law and order fails. Therefore at the centre of both democracy and its inherent social contract must be government rules, clearly stated and properly policed, against maladministration and lying by public officials. The consequences of failure are corruption and violence. Particularly targeted for scrutiny must be key officials as they can easily intimidate and corrupt subordinates within the public service. The military generals of the government are no exception.

Government, like society, works well if people adhere to codes of conduct stricter than the law requires. A society's welfare is constantly threatened as senior bureaucrats and politicians either make laws deliberately weak or become blind to the spirit and intent of the rule of law when and where their own accountability is involved. Also, a law administered by corrupt or ruthless officials is no law at all. Ultimately, it is the integrity of the rule of law in office not law that gives legitimacy to government, ministers and public servants, including the Army generals.

Australia's functioning as a liberal democracy is not as secure as our politicians would have us believe. If the rule of law is subverted by those employed to protect its integrity then disorder can only breed and fester. In 1995 a council of all State and selected Federal ministers unanimously called upon the public to respect the mores and traditions of Australia's non-violent resolution of social and political conflicts. It is a mandatory pre-requisite to this that no official has any right whatsoever to abuse power so as to financially, psychologically or physically harm another citizen. It is also a pre-requisite that Ministers have courage and competence to redress grievances against

maladministration. It is insidious violence when a minister avoids, delays or obstructs corrective action or is otherwise indifferent to or acquiesces in his/her Department's maladministration. This includes the acts or omissions of the Army generals."

7. In my case, in 1980, the improbity of senior officers intensified in order to fabricate damning accusations to condemn my competency and professionalism and stop my promotion and deliberately bring about my constructive termination from army. My 1979 commanding officer recommended I be promoted to substantive major but he was ignored. A group of officers at Army Headquarters, who were intent to destroy my career, were furious when, in 1980, my next commanding officer, LTCOL Peter Emmet also recommended I be promoted to substantive major. Emmet was then pressured to alter his recommendation to "Not Recommend". Emmet complied the next day. He formally withdrew his recommendation. He claimed that (suddenly) my performance of duties had collapsed. He told COL Blyth, Head of Corps that my "presence on his headquarters for more than a week or the next 10 days would be positively damaging". If that was the case then Emmet should have removed me as his regimental operations officer. He should have rotated me with the more senior major on his HQ who was in the administrative position. I was told nothing of what had occurred. Instead Emmet left me in the operations posting which was the key position in the regiment. Nor did he tell me what he had done to reverse his promotion recommendation on my annual 1980 confidential report. This denied me the legal right to see that change. Consequently, I lost seniority as a Major and was discharged with substantive rank captain. I had held rank Major for the previous four years. The same documents that were used to stop my promotion were then used again to constructively terminate me from Army. In an AAT hearing the Members were perplexed by this behavior and questioned if my performance had suddenly collapsed, why wasn't I reverted to a captain's position.

8. No Minister for Defence or general has had the decency to correct my rank to substantive major or redress the wrong of my constructive dismissal from army. Instead, relevant ministers and generals continue to perpetrate their punitive and vindictive decision making against me that has continued for the past 42 years. Not one of them

has acknowledge or apologized for what they have done. “No one acted unfairly against Warren” is all they can chant. And this is their version of fostering a civil society based on the rule of law.

9. The findings of the Robo-debt RC confirm the abuse of power afflicting our federal government. The term “loss of trust in government” is now so old and hackneyed it no longer has meaning. The normalization of official corruption by key officials follows their systemic abandonment of fidelity to duty. The broader Australian community struggles to understand how our governing institutions have become so incompetent, financially wasteful and dishonest. Regrettably, as exemplified in part by my case, the army generals and their portfolio responsible minister have proven themselves to be the worst offenders. This is the vicious behavior that Krygier warns us against that breaks down a civil society. Defence is notorious for its wasting multi-millions of dollars. Its legal costs alone to cover up its corruption and malfeasance runs into the millions. It is also notorious for failing to live up to its promises of reforms and the purging of bad cultures and ethos. The latter still thrives within Defence.

10. It should not be difficult for the public to understand the trauma caused by the insidious violence perpetrated through government maladministration and corruption. Defence can be particularly deceitful when it comes to investigations of such matters. Transparency and accountability have been worthless concepts, especially when senior officials are involved. Illegal destruction of evidence and ‘plausible deniability is the order of the day.

11. It is difficult to fathom why the public hold Defence in such high regard. The crux of this must be the perpetual need for successive governments to promote the image that our ADF is world class and its members will be the first to die in our national interest when the situation arises. Fair enough and rightly so – but every other developed and developing country does the same. However, to believe our ADF personnel are better than the others is questionable.

12. The political hype to propagandise Defence is readily illustrated with a recent tragic event. On 28th July 2023 four army aviators died in a training accident in Queensland. In expressing his condolences to the families of the deceased, Prime Minister Albanese added that the accident, “was a stark reminder that there were no safe or easy days for those who serve in our country’s name.” This was a false and gratuitous statement. Perhaps he was untactful in using the opportunity for propaganda purposes – or he is incredulously naïve.

13. In my random survey of ex-servicemen they considered Prime Minister Albanese’s condolence statement to be a foolish perception of service life in general. One former RAAF aircraft fitter bemused because he never had an unsafe or hard day in his several years of service. I doubt if most of the 10’s of 000’s of servicemen who served in the Vietnam War at the Australian logistic base at Vung Tau would claim they felt unsafe or had many uneasy days. When a RAN warship went in for a total refit in the USA that took several months, the full crew went with it. The crew’s biggest stress was trying to stay out of the way of the 100’s of civilian workmen doing the refit. Keeping occupied was a problem for the crew.

14. This RC’s task is to identify causes of suicidality unique to Defence and veterans. Hence it needs to be brutally frank with facts and be able to separate such from political spin.

15. I consider it important that this RC makes distinct the difference between the employment experience between veterans and non-veteran service personnel. In context of this RC this word ‘veteran’ should apply strictly to ADF members and former members who have seen active service. I take this to include being deployed to a war zone or on peace keeping operations. I trust this RC has long ago separated current ADF members into veteran and non-veteran status for suicidality examination purposes? I am mindful of the difficulty the

Department of Veteran Affairs has in separating genuine from non-genuine applications for entitlements by veterans.

16. Nothing that I have written about distracts from the serious nature of what the ADF is expected to do and train for. But fake or exaggerated profiles of ADF personnel performance and dedication is counterproductive to the discovery of the causes of suicidality unique to Defence and veterans. The ceaseless mantra by the generals is that the ADF's greatest asset is its people yet they continue to betray and dishonor our service personnel with their systemic corruption of the Military Justice System.

17. There is a plethora of global research material on military suicidality. I assume this RC has reviewed most of it, in addition to the broader material available on civilian suicides. There is a documentary on YouTube titled "Why Are American Soldiers Killing Themselves? – Beer is Cheaper Than Therapy." It is 1hr and 20 minutes long and made 2 years ago. It is focused on Fort Hood – one of USA's biggest army bases. I recommend this RC watch this documentary. One of its main findings was the high rate of suicides for soldiers who were rotated back to duty in Afghanistan with known psychological problems (e.g. PTSD) caused by their previous tour(s) of duty. The army generals at Fort Hood refused to co-operate with the investigation. Similar circumstances might have occurred with ADF veterans?

18. If currently serving members of the ADF, who are non-veterans have a suicide rate approximating the national average it would be reasonable to assume the causes of their suicide are not necessarily related to their ADF employment.

19. General statistics on suicidality profiles, unrelated to the ADF can be used as a comparative base for the purposes of TofR(p). Examples include:

- . Suicide research found an individual's suicide crisis occurs over a very brief time. Twenty-five percent of suicide attempts advance from thought to action within 20 minutes. Seventy-five percent advance within one hour.
- . Iceland has one of the highest suicide rates in the world – attributed to the weather and darkness;
- . 76% of suicides in the United Kingdom are men, average suicide rate is 12 per day -mostly under 45 years of age and a large number of the general population have had suicidal thoughts;
- . More than 30,000 Americans take their lives annually. It is the eighth leading cause of death and the third leading cause of death for those aged 10 to 24 years;
- . In Australia, the mental health crisis among young people is worsening. 'Kids Helpline' responded to almost 1,900 suicide attempts last year. Such cases made up over 1/3 of emergency interventions. (SMH 9.5.23 article by Henrietta Cook). It's even possible that 'suicide attempts' by teenagers risks becoming a 'cult fad';
- . Financial stress is a key risk for suicide in Australia. Lifeline reported up to 80% of its calls now related specifically to cost of living pressures (SMH 1.5.23). These figures are similar to those in the USA;
- . Farmers are probably one of the highest suicidal groups in Australia. This group is constantly exposed to serious challenges on many fronts, most of which are beyond their control; and
- . Obviously, there are many other suicidal groups this RC knows about – aboriginals in custody, drug addition, construction workers and first line respondents are just a few.

20 Risk factors that contributed to suicidality both within the ADF and the wider community include, but not exclusive to:

- . stigma of mental health issues;
- . serious chronic physical health issues;
- . sexual matters, including sexual abuse;
- . childhood experiences;
- . relationship issues;
- . financial problems;
- . destroyed ability to provide for family;
- . victimization, bastardisation and harassment; and
- . trauma events.

21 The last two points above are particularly relevant to Defence and veterans. As previously stated in my first submission, ADF personnel are trained, and are expected to kill. I stated they also kill civilians. United Nations figures show:

- . during World War 1 10% of casualties were civilians
- . during World War II 50% of casualties were civilians
- . during the Vietnam War 70% of casualties were civilians
- . during the Iraq War 90% of casualties were civilians

These figures cannot be ignored. The killing of civilians not only has a traumatic effect on those involved or witnessing such events but also on units deployed as a whole. The post WW2 spike in civilian deaths corresponds to the rise of the USA military industrial complex.

22. The Australian government instigated and justified Australia's military involvement in Vietnam, Iraq and Afghanistan on the grounds of national security. None of these wars made Australia or the world a safer or better place. Nor were they in our national interest other than

to demonstrate our loyalty to the USA. Stripped bare, this meant loyalty to the USA military industrial complex. On 17th January 1961, outgoing US President Dwight Eisenhower warned that its emergence was a threat to democracy and hence the rule of law. His warnings have materialized and intensified by the ever increasing power of corporations over government decision making and law making – not just in the USA and Australia but globally. But what is the relevance of this to the current RC? I submit that there is a connection, but it is indirect and opaque. It relates to the decline of democracies because of the transfer of power and wealth away from the people to a diminishing and privileged few. The adverse impact on societal welfare is real and quoting from ‘More Vicious than Virtuous’, “Rousseau warns us that nothing is more dangerous to democracy than the power of private interests in public affairs and the abuse of law by government.” In context of this RC’s TofR (p) this relates to how the rule of law is abused by key officials, in this case, in Defence and portfolio responsible ministers

23. Democracy is in decline around the world. Mistrust of government and our institutions of state is escalating and a collapse in trust of government affects peoples’ mental health. The journalist who investigated Mr Roque Hammal’s case considers the Central Coast Council to be one of the most corrupt in NSW. Journalist Stan Grant, as quoted from the SMH 23.8.23, “Democracy everywhere is suffering because of the way we have been driven to take up side positions of conflict. It’s destroying our society”. I know this from my own experience of dealing with dishonest and corrupt key officials for the past 42 years. Their abuse of power has prevailed because Defence legal officers have aided and abetted their malfeasances and misfeasance. Defence legal has been profligate in spending millions of taxpayers’ monies to cover up cases such as mine. In so doing they have perpetuated the corruption of the Military Justice System by the generals. This is a leading cause of suicidality amongst veterans and ADF members.

24. Decades ago, Professor Krygier warned us of the breakdown of the rule of law that follows abuse of power by key officials. In January 1961, Eisenhower alerted us to the danger of the rise of unprincipled corporations that are driven simply by power and greed. There are macro

level global issues that are difficult to link to micro levels of change in the psychological well-being status of individuals and households. Yet, the deprecatory consequences are omnipresent, though undetectable to most people who ultimately become the unwitting victims through intensified mental stress and trauma.

25. In 1994 LTCOL Ben Salmon QC wrote a corrupt and improper Investigating Officer report to assert that no one had acted unfairly against me to stop my substantive promotion to major, and then constructively terminate me from army on false charges of gross incompetence and unprofessionalism. As Prime Minister, John Howard refused to have the Salmon QC I O's report questioned or reviewed. This is a case of a Prime Minister using power to destroy the life of one individual. This same Prime Minister took Australia to war against Iraq based on massive lies and known at the time to be so. As a consequence, Australian servicemen were killed and others suffered psychological damage (being a leading cause of veteran suicides). Howard's lies contributed to the death of between 350,000- 410,000 Iraq civilians who were 90% of the dead. Some estimates put civilian deaths up to 1 million! If so, this must include deaths caused by post war enforced blockades and punitive sanctions. The Australian Navy is proud to have served our Nation in enforcing these blockades.

26. Howard's war on Iraq was not supporting our national interest or the international rule of law. This was all about unquestionable loyalty to the USA military industrial complex. Its financial interests rely on starting wars or maintaining the constant threat of war. Anybody who doesn't realize that it is also behind the cause of war in Ukraine is naïve. Some estimates now put the deaths in Ukraine at 500,000. How many of these are civilians?

27. The TofR (p) invites consideration of all factors towards understanding of suicide behavior and risk factors and protective factors, within the ADF and veteran communities and the broader Australian community.

28. At the micro level, individual veterans can be saved from suicidality simply by not exposing them to the horrors and trauma of war by not deploying them to unjust wars that are based on lies and achieve nothing. Vietnam, Iraq, Afghanistan fall into this category. Alternatively, the electorate must understand and accept that suicides amongst veterans have been and are in support of the USA's military industrial, financial complex. At the individual level enlistment means entering into a contract to kill or be killed or risk suicidality in support of the power of the military complex that is beyond the reach of government but which shapes the narrative of why Australia should commit its youth to war.

Allan K WARREN