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20111201-ASTUSI-R

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1 December 2011

SERVICE INQUIRY INTO THE SHOOTING INCIDENT ONBOARD HMS ASTUTE

1. The Service Inquiry Panel assembled at NCHQ, Whale Island on 12 October 2011 by order¹ of Vice Admiral G M ZAMBELLAS DSC, Deputy Commander-in-Chief Fleet for the purpose of investigating the facts and circumstances of the shooting incident onboard HMS ASTUTE at Southampton on 8 April 2011 has concluded its enquiries and submits the provisional report for the convening authority's consideration.

President:

Signed..... Board Member A

Members:

Signed..... Board Member B

Signed..... Board Member C

Legal Advisor:

Signed Legal Adviser A

2. The following papers are enclosed:

The Report, comprising:

- a. Narrative, Findings and Recommendations at Enclosure 1.
- b. Convening Order and Terms of Reference at Enclosure 2.
- c. Summary of Recommendations at Enclosure 3.

The Record of Proceedings, comprising:

¹ 20111010/DCINCFLEET, Convening Order, dated 10 October 2011.

- d. The list of witnesses and Interview Transcripts at Enclosure 4.
- e. The list of documents used at Enclosure 5.
- f. The list of exhibits used at Enclosure 6

HMS ASTUTE SHOOTING INCIDENT SERVICE INQUIRY – PROVISIONAL REPORT

President Board Member A

Members Board Member B
 Board Member C

Legal Advisor Legal Adviser A

Introduction

1. On 8th April 2011 HMS ASTUTE was alongside in Southampton. Shortly after 1200, during the preparations for handover of armed casing sentries, a number of shots were fired onboard the submarine, narrowly missing two Senior Rates in the Control Room, CPO(TS) David McCOY and PO(TS) Christopher BROWN. Further shots, fired shortly afterwards, resulted in the death of Lieutenant Commander Ian MOLYNEUX Royal Navy, the Weapon Engineer Officer, and the serious injury of Lieutenant Commander Chris HODGE Royal Navy, the Marine Engineer Officer. Following a police investigation, AB1(WS)(TSM) Ryan DONOVAN [REDACTED] was charged with murder and three attempted murders. On 19th September 2011, after pleading guilty to the charges, DONOVAN was sentenced to serve a minimum of 25 years imprisonment.
2. Following the conclusion of criminal proceedings, the Deputy Commander-in-Chief ordered that a Service Inquiry (SI) be convened to investigate the facts and circumstances surrounding the shooting incident onboard HMS ASTUTE.² This SI formally convened on 12th October 2011. The Terms of Reference (TOR) for the inquiry were specified by the Convening Order and are at Enclosure 2.
3. The police investigation had already established 'what' had occurred. The SI now needed to establish the 'how' and the 'why' in order to minimise any possibility of recurrence. The Panel consider that the level of inquiry necessary to fulfil the TOR has been completed and have recommended where further work should be undertaken. Legal issues, the potential for further public interest, the sensitivity of the incident for those involved (and next of kin) have been strongly considered throughout this SI. The widow of Lieutenant Commander MOLYNEUX, Lieutenant Commander HODGE and the mother of AB DONOVAN were notified by the Inquest Support Section that this SI was underway and they were provided with regular updates and given opportunity to discuss the SI with the President; although none elected to do so. A letter concerning the Inquiry, dated 5th October 2011, was received by the Inquest Support Section from Mrs WOODS the mother of AB DONOVAN, and passed to the President.
4. This Report has been agreed and signed by all the members of the Panel.

² 20111010/DCINCFLEET ASTUTE Service Inquiry Convening Order dated 10 Oct 11.

Methodology

5. In order for the Panel to understand the circumstances surrounding the incident it has been necessary to review the police files which contain the witness statements³, the interview record with the accused and various reports. The narrative of events is based upon the prosecution case made at Winchester Crown Court which is a matter of public record. The majority of the police evidence file concerns the detail of the actual shooting event itself. It should be noted that nothing contained within the police file casts doubt on where the responsibility for the shooting ultimately lies. DONOVAN's admission of guilt to murder acknowledges the pre-meditated nature of his crime.

6. The fact that this SI was convened after the criminal trial of the man responsible has necessitated a methodology at variance to that normally used in service inquiries, as expressed in the Convening Order. At the outset, the Panel considered the need to take further evidence from personnel then onboard HMS ASTUTE. The content of the witness statements has, with 2 exceptions as indicated in the text, not been admitted as evidence in this SI. It was concluded, however, that the police investigation contained sufficient information concerning the shooting incident itself and that the TOR for this SI rather demanded that the focus of the inquiry should be towards the policy and process that might mitigate or prevent recurrence. This forward looking strategy was discussed with the Single Service Inquiry Coordinator, Director Naval Personnel, who agreed that the taking of further evidence from HMS ASTUTE witnesses would not be necessary, provided the objectives set out in the TOR of the SI were met in full.

Framework of the Report

7. The TOR provided for this SI are understandably wide ranging and, in certain areas, overlap; for instance, review of Armed Guarding Policy requires consideration of fitness to stand duty, which in turn, demands discussion of alcohol policy. It is not possible, therefore, to structure this report such that each Term of Reference is considered in sequential isolation. This report is thus framed thematically, with cross-references to the relevant TOR. The aim has been to present argument that flows as follows:

- A short narrative of key events (TOR 1 & 3);
- Part One - An examination of DONOVAN's career and experience (TOR 1 & 3);
- Part Two - HMS ASTUTE's visit to Southampton (TOR 1, 2, 3 & 4);
- Part Three – The management of Alcohol in the Royal Navy (TOR 2, 3 & 4);
- Part Four - Review of the Armed Guarding Service Inquiry (TOR 4).
- Final summary.

Where possible, the report contains only such detail as is necessary to support the findings and recommendations. Further detail is provided in separate Annexes.

³ JSP 832, Art. 4.12 Witness statements may be used as an aid to identifying potential witnesses and lines of inquiry.

Event Narrative

8. HMS ASTUTE arrived in Southampton on 6th April 2011 for an Operational Stand Off Period (OSP), berthing at the QE2 Terminal. This was the first visit this First of Class submarine had undertaken, other than its homeport, since departing the shipbuilders yard in Barrow. The visit was therefore high profile and attracted significant media interest. On Friday 8th April, the Commanding Officer was due to host a lunch onboard for invited guests and civic dignitaries and by 1200, his guests were being entertained onboard in the Control Room.

9. At about 1200, DONOVAN was being readied to undertake his duty as the armed sentry on the submarine's casing. After completing the necessary safety checks, he was issued with his weapon, an SA80 rifle, by PO(TS) BROWN at the weapon locker [REDACTED], adjacent to the control room. CPO(TS) McCOY, who wished to speak to PO(TS) BROWN was also in the vicinity, waiting for the weapon handover to complete before conducting his business. Having been issued with his rifle and [REDACTED] ammunition, DONOVAN was ordered to load the magazine onto the rifle. He did so and then turned away towards the ladder leading to the casing.

10. As DONOVAN stepped away from the weapon locker, PO(TS) BROWN realised that he had not yet signed the log to record the issue of the weapon. He called out to DONOVAN, who turned, raised the rifle at hip level and shot 4 times at BROWN and McCOY, missing both men. As the 2 Senior Rates dived for cover, DONOVAN turned again, back towards the Control Room. The Commanding Officer and the submarine Heads of Department were in the Control Room hosting the guests prior to lunch. On hearing the shots being fired, Lieutenant Commander MOLYNEUX went to investigate. DONOVAN fired the fatal shot and then continued to move forward in to the Control Room, firing his sixth shot, seriously injuring Lieutenant Commander HODGE. DONOVAN was restrained by the actions of those in the vicinity, the Leader of Southampton City Council, Councillor Royston SMITH and the Chief Executive of the Council, Mr Andrew NEILL. A seventh shot was fired, impacting on equipment in the Control Room, possibly fired whilst DONOVAN was being restrained and disarmed prior to being handed over to the Police.

FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

PART ONE

DONOVAN's Career and Experience

11. DONOVAN's career history has been examined from the moment he joined the Royal Navy in November 2006. In particular his disciplinary, leave and professional records have been reviewed seeking any evidence of unusual instances or untoward behaviour. The full examination of his career and experience is at Annex A.

Discipline

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Leave

[REDACTED]

⁴ Witness statement Officer A dated 15 Nov 11.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Conclusion:

Issues concerning leave do not occur elsewhere within the evidence examined by this SI and leave is not, therefore, further considered as a relevant factor. (TOR 1 & 3)

Medical

15. Personnel joining the Royal Navy are medically screened beforehand; this includes the requirement for applicants to self-report on their medical questionnaire if they are suffering from mental health issues. Before joining the Navy DONOVAN would have been assessed by the reviewing medical officer as scoring normally for emotional stability⁶. He would have been further reviewed by a Personnel Selection Officer (PSO) on joining RALEIGH. The PSO interview is designed to establish 'a training or settling risk' for new recruits not to provide assessment of emotional or mental health⁷. The requirement for further profiling of new recruits was assessed by the Armed Guarding Policy Service Inquiry (AGPSI) who, whilst noting the different approach taken by the Army, concluded that the process was satisfactory.

Finding:

The rationale for current screening and profiling methodologies for recruits has been examined by the AGPSI. They judged that the techniques in use will detect personnel with readily identifiable psychological and psychiatric issues; largely based on a self-declaration. (TOR 1, 3 & 4)

Finding:

The Army seek corroboration of a candidate's medical statement with the GP at a cost of approximately £80. The AGPSI concluded that this check did not add significant additional value; although the Naval Professor of Psychiatry reported to this SI that some cases where recruits had not declared pre-existing mental health conditions had been recently discovered; usually presenting a considerable administrative burden. (TOR 1, 3 & 4)

[REDACTED]

⁵ Witness statement Officer A dated 15 Nov 11.

⁶ JSP 346 Chapter 1 – Description of the PULHEEMS system.

⁷ Telecon Officer B (ASTUSI) / Person A (PSO Department HMS Raleigh) 20 Oct 11.

The threshold at which personnel serving in the Royal Navy will be referred to mental health practitioners is assessed as being generally lower than for the general public, i.e. military personnel are referred and treated at an earlier stage. (TOR 1)

[REDACTED]

[REDACTED]

Finding:

He was assessed on all these occasions as being 'Fit for Full Duties within current Medical Employment Standards', which included acting as an Armed Sentry. (TOR 1, 3 & 4)

Conclusion:

[REDACTED]

The Divisional and Medical systems delivered appropriate support to DONOVAN. Where concerns were identified they were acted upon quickly and ensured that he was seen in timely fashion by relevant health professionals who assessed and treated him correctly. (TOR 1 & 3)

Finding:

The DCMH at the Clyde Submarine base is not served by a full time psychiatrist, unlike the other Naval DCMH in Portsmouth and Devonport. (TOR 1)

Finding:

Ordinarily, referral to a DCMH must come through a GP. A pilot study is underway in selected Establishments to allow personnel to self-refer direct to DCMH. (TOR 1)

Conclusion:

The ability for personnel to easily gain access to mental health practitioners is vital if appropriate and timely support and treatment is to be offered. The provision of a full time naval psychiatrist in NEPTUNE would improve the level of psychiatric care being offered. The ability to self-refer to a DCMH without first going through the sickbay would also encourage personnel to seek help when needed. (TOR 1)

Recommendation B:

A permanent naval psychiatrist should be provided in NEPTUNE to improve the level of psychiatric care. This need is only likely to increase as the Clyde Submarine Base at Faslane grows to become the Submarine Centre of Specialisation. (TOR 1)

Recommendation C:

Subject to the pilot scheme being assessed successful, then the policy of allowing self-referral by naval personnel direct to a DCMH should be rolled out across the Service. (TOR 1)

Professional

17. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Conclusion:

DONOVAN's professional progression is entirely consistent with his seniority and experience. (TOR 3)

Character

18. DONOVAN is known onboard for his liking of rap music. He wrote his own lyrics, sometimes in collaboration with other members of the ship's company. One such song was titled 'General Alarm' and contained the line '*Tell the Quartermaster I cause disaster, SA80 more palaver*'. In a conversation with one of his colleagues, a year before the incident, DONOVAN stated that he was "*trying to work out how to start a massacre in the control room*".¹³ The discussion moved on to draw parallels with the 'kill frenzy' that is a feature of the Grand Theft Auto computer video game.

Conclusion:

It is feasible to conclude that the lyrics were consistent with the musical genre and simply adapted to meet DONOVAN's own experience as an armed sentry. (TOR 3)

Conclusion:

¹⁰ AB Donovan's Divisional documents.
¹¹ Witness statement Officer A dated 15 Nov 11.
¹² AB DONOVAN Form 2020, RN Regular Rating's Appraisal for period 01 Dec 09 to 30 Nov 10.
¹³ Statement by Rating A, to the Hampshire Police dated 9 Apr 11. Quoted with his permission.

Looking back after the shooting incident has caused some of his peers to consider whether prior conversations they had with DONOVAN or knowledge of his propensity to write rap lyrics might have provided relevant indicators of what was to come. It is this Panel's conclusion that this is only made possible with hindsight; it could not have been reasonably inferred by his friends and messmates at the time. (TOR 1)

Conclusion:

That the lyrics or the conversation were not reported to higher authority as a cause for concern is not surprising; discussions surrounding fantasy scenarios are not uncommon and rarely point to intent. If, however, an attitude to jokes or comments about guns or shooting similar to that found in airports, with their zero tolerance approach to comments about bombs, prevailed, then outcomes may have been different. (TOR 3 & 4)

Finding:

The AGPSI reported that, during Initial Naval Training, *“inappropriate comments with regard to weapons are treated equally seriously and trainees have been discharged on such grounds – indeed, such is the culture of Phase 1 training, where the core naval values are instilled and vigorously applied, that trainees are obliged to report the behaviour of others where they consider it to be incompatible with service values.”* (TOR 4)

Conclusion:

Devising a set of rules or guidelines which define how particular comments, words or phrases should be acted upon is clearly not feasible. It is not possible to legislate for all the circumstances that might be encountered. Each situation will need to be judged, according to its unique characteristics and merits, by the individuals concerned. Words spoken by one person might obviously be meant and safely interpreted as humour; the same words spoken by another might be an obvious threat. There is a need to treat inappropriate comments seriously during initial training. That need should decline as personnel mature and become ingrained with the military ethos. Nonetheless, reinforcement of the imperative for a questioning and cautious approach to be taken when someone is confronted by inappropriate attitude should continue. (TOR 1 & 4)

Recommendation D:

That the requirement to consider an individuals attitude as a *contra-indication* towards their employment on armed duties be additionally reinforced on Divisional and Leadership courses. (TOR 1 & 4)

19. In summary, there was nothing about DONOVAN, his character, career or experience that was so remarkable that any sensible prediction could have been made, by an individual or the Service, that he might pose future risk.

FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

PART TWO

HMS ASTUTE's visit to Southampton

20. HMS ASTUTE sailed from Faslane on 19th February 2011 in order to conduct further sea trials. Having spent 46 days at sea, the submarine arrived at Southampton on 6th April 2011. This section of the report examines the events onboard immediately prior to the visit, the arrangements made in Southampton, the behaviour of the crew and of DONOVAN, culminating in the shooting. The full detail of these events and circumstances is at Annex B.

21. The 46 days spent at sea conducting trials allowed plenty of opportunity for boat transfers.

[REDACTED]

Finding:

HMS ASTUTE spent 46 days at sea prior to arrival in Southampton, but having been landed for 'Fifth Watch' leave. DONOVAN is only onboard for the final 12 days.

Disobeying an order

[REDACTED]

23. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Conclusion:

A concern that DONOVAN might over-indulge in alcohol, [REDACTED] was acted upon appropriately by his immediate managers. They discussed the likelihood of DONOVAN misbehaving ashore, there was even consideration given to informing the police beforehand that DONOVAN would be ashore, though this was not followed through. Instead, his colleagues were invited to keep an eye on him [REDACTED]. Reporting DONOVAN beforehand to Southampton Police to be 'watched' would not have been useful or appropriate. (TOR 1 & 3)

Food and Accommodation

24. The Ship's Company were accommodated for the duration of the visit in local hotels, the Junior Rates in the Hilton International. As is customary for short submarine OSPs, the crew were not required onboard unless nominated for duty or for work.

Finding:

Space and bunks are at a premium onboard a submarine. Submarine crews are usually accommodated ashore whilst the submarine is alongside. This will be in Service accommodation whilst in UK or foreign naval bases and in hotels whilst visiting civilian ports. (TOR 1 & 2)

Finding:

HMS ASTUTE has been heralded as the first submarine not to require 'hot bunking' where bunks are shared by more than one crew member. Despite this significant improvement, this does not take account of additional personnel carried onboard for training and for trials. There were still insufficient bunks to sleep all personnel simultaneously and the standard of submarine accommodation still falls significantly beneath that of modern surface warships such as Type 45 Destroyers. (TOR 1 & 2)

Finding:

With a busy programme of visiting VIPs, media, tours and official receptions, it would have been the intent of HMS ASTUTE's Command to keep as many non-essential members of the Ship's Company away from the submarine as practicable. (TOR 1 & 2)

Finding:

Whilst the Ship's Company are accommodated in hotels ashore, meals onboard would only be provided for the Duty Watch. The galley and messes are just capable of coping with demand whilst the submarine is at sea in a strict watch keeping routine. They are not scaled to cater for the crew alongside. (TOR 1 & 2)

Finding:

Subsistence expenses are normally paid for by the individual and then later reclaimed as expenses, supported by receipts, through JPA. That system has not proven effective for a

whole submarine crew since, on sailing, they are unlikely to have access to JPA and could not reclaim their expenses; an administratively burdensome system. Instead, a daily special messing allowance is given to each man for those days he is not required onboard for duty. This money is paid in cash, in advance and need not be accounted for using receipts. For this visit this allowance amounted to £21.83 for each day spent ashore; whether or not this money is spent on food is left to the individual's discretion. (TOR 1 & 2)

Conclusion:

Submariners have long enjoyed the privilege of living in hotels and eating ashore during OSPs. The rationale for doing so continues to be valid; living onboard, even modern submarines, whilst alongside is not practicable except for the shortest periods of time when operational necessity prevails. Living onboard alongside is not compatible with a submarine being in the public eye, hosting high profile civic and media events. The fact that the crew, including DONOVAN, were accommodated in hotels ashore and that they were paid money to enable them to buy meals had no part to play in the shooting onboard. The cash that they were given to purchase meals could indeed have been used to buy alcohol and forego food. If military personnel are to be treated as being sensible and mature then the decision of how to spend that money must be left to them. (TOR 1 & 2)

Recommendation E:

Submariners are not expected to live onboard whilst in base port; similar standards should at least prevail whilst visiting another port. Current domestic arrangements for submarine visits should therefore continue. (TOR 1 & 2)

Conduct of the Crew

25. As First of Class, HMS ASTUTE's programme has suffered frequent setback and delay, further compounded by the grounding incident in October 2010. This has inevitably lead to 'churn', had impact on the planning of leave and personal arrangements, with consequent frustration by the Ship's Company. The resumption of sea trials in February 2011, followed by the period of 46 days at sea, marked a significant milestone in the submarine's programme, capped by the first visit HMS ASTUTE had made away from base port. A consideration in the planning of the visit by the submarine command team would have been an assessment of how the crew would behave when ashore.

Conclusion:

The Ship's Company of HMS ASTUTE had been through difficult and challenging periods during the months following their departure from Barrow. There is no reason, however, to believe that they were significantly more stressed than other operational submarine crews. (TOR 1)

Finding:

This was the first opportunity for the majority of the Ship's Company to relax with a drink since sailing 46 days previously. In common with all other submarines, alcohol, whilst allowed, is very rarely drunk whilst at sea. (TOR 1 & 2)

Finding:

This was the first opportunity the Ship's Company had to enjoy a 'run ashore' in a civilian port since HMS ASTUTE had sailed from Barrow. (TOR 1 & 2)

Conclusion:

It is important that opportunity for relaxation, entertainment and activity be provided to a Ship's Company that does not entail drinking. (TOR 1 & 2)

Recommendation F:

Ships and submarines continue to be reminded of the need to exploit any opportunities, sporting, cultural or adventurous to encourage positive and healthy activity outside of pubs and clubs. (TOR 1 & 2)

Finding:

Decompression is a specific process to help operational personnel adjust to normality at home. It was not appropriate for use by HMS ASTUTE. (TOR 1)

Finding:

Guidance on how to manage submarines returning from high tempo operations has been issued by Rear Admiral Submarines (RASM)¹⁴, supplemented by Navy Command Headquarters (NCHQ) issued 'Coming Home' briefs and literature. This guidance is apposite for ships and submarines engaged in demanding operations; not so for submarines suffering the usual frustrations of normal running. (TOR 1)

Finding:

Normalisation for a ship is achieved through the transit home from operations, falling out of defence watches, flight deck barbecues and other 'winding down' activities. A port visit during the outbound transit can also assist in this process. For the submarine, such normalisation may not be as easy to achieve. The submarine will remain in 2 watches, and will be limited in scope for whole ship social activity whilst underway. (TOR 1 & 2)

Conclusion:

The submarine crew returning from stressful operational deployments will be more constrained in their ability to 'normalise' during the transit home. They may not be as 'unwound' as their surface colleagues at the first port visit, perhaps resulting in greater likelihood of a rambunctious 'run ashore'. (TOR 1 & 2)

Recommendation G:

Further study should be undertaken to assess the impact of extended submarine deployments and ascertain the benefit of current and potential normalisation techniques and interventions. (TOR 1 & 2)

Drinking Ashore

26. DONOVAN occupied his time whilst ashore in Southampton in similar fashion to his peers. On the Wednesday evening this entailed visiting the pubs and clubs in Southampton, drinking heavily, before returning to the hotel in the early hours of the following morning. On the Thursday afternoon, a group of the Junior Rates met by prior arrangement in a pub where a quantity of

¹⁴ COMOPS-COR-06-SM, High Operational Tempo and Welfare of the Submarine Force, dated 02 Jun 11.

money was put behind the bar. DONOVAN continued, with others, to spend the evening drinking, before being sighted returning to the hotel at about 0330 on the Friday morning.

Finding:

DONOVAN was known to be up in the early hours of Friday 8th April, returning to his hotel at about 0330. At this point he is only eight and half hours away from going on duty. It is not possible to state, however, whether he had been drinking right up until that point or, instead, had consumed his last drink some time previously. (TOR 1, 2 & 3)

Finding:

No other incidents, drunkenness, damage to people or property, were reported as arising from this visit. Had it not been for the tragedy of 8th April, the visit to Southampton would no doubt have been reported as outstanding success. By currently accepted Naval standards, this was a well behaved Ship's Company acting with due decorum. (TOR 1 & 2)

Finding:

The submarine had arranged for a Duty Hotel Senior Rate to be responsible for managing issues ashore within the hotels. There was no requirement stipulated in the Visit Temporary Memorandum¹⁵ for personnel living in hotels ashore to check in with this Senior Rate or the submarine.

Conclusion:

Witnesses argued that sailors living ashore over a weekend are considered sufficiently responsible to manage their own affairs, so exactly the same rationale and trust should apply when they live ashore during a submarine visit. It was argued, conversely, that sailors on a visit are more likely to drink heavily with consequent risks. The essential difference being that a sailor on weekend leave is acting independently; the sailor on a 'run-ashore' is doing so under the umbrella of an officially sanctioned visit. The Service therefore retains a greater responsibility to ensure the well-being of such personnel during OSPs. (TOR 1 & 2)

Recommendation H:

The good practice of sighting all personnel, at least daily, in order to deliver a reasonable level of 'duty of care' during OSPs to be fostered within the submarine flotilla. (TOR 1 & 2)

Finding:

The money placed behind the bar had been collected by the Junior Rates mess over the preceding months, this not being expressly forbidden by Naval Regulation. Indeed, the principle of paying in advance for a social event is no different to that used to fund an office Christmas lunch. When the money was collected is of no real consequence since the same effect would have been achieved by paying into a 'kitty' at the door. (TOR 1)

Finding:

The amount of money placed behind the bar was in the order of £450 which, when shared amongst those in attendance, amounted to approximately £15 each. Depending on the nature of alcohol consumed this amount of money would likely purchase approximately 4 or 5 pints of beer. This would roughly equate to being no more than the 10 unit maximum then

¹⁵ HMS ASTUTE Temporary Memorandum 20/11 – Visit to Southampton.

permitted (the rule now being 5 units) to be consumed by an Armed Sentry within the 24 hour period before duty. (TOR 1, 2 & 4)

Conclusion:

The attendance of those Junior Rates who were nominated for duty the following day at this social function was not incompatible with the rules then in force concerning alcohol consumption before undertaking Armed Duties. The alcohol consumption rules would likely only be breached if those individuals went on to drink more alcohol over the subsequent hours. (TOR 1, 2 & 4)

Conclusion:

The Junior Rates social cannot be held as being, in itself, a contributory cause. Further action would be required by an individual to break established drinking rules. (TOR 1, 2 & 4)

Finding:

There was no apparent provision made by the submarine or city for alternative crew entertainment. (TOR 1 & 2)

Conclusion:

It is almost certainly naïve to think that other cultural or sporting activities would prove more attractive than Southampton's clubs and pubs (see **Recommendation E**). (TOR 1 & 2)

Conclusion:

Notwithstanding, without such alternative provision being offered it can come as no surprise that most young men will conform to the British civilian, Armed Forces and Royal Navy social norm and drink heavily when given the money and opportunity so to do. (TOR 1 & 2)

Friday 8th April 2011

27. DONOVAN shared his hotel room with another crew member who ensured that DONOVAN was awake and dressed in sufficient time to catch the transport back to the submarine, prior to the Duty Watch handover at 1200. Whilst waiting for the submarine DONOVAN had a conversation with one of his colleagues who says¹⁶ that DONOVAN stated that he would be "*First on guns*". The same colleague observed that DONOVAN looked fine and did not look sluggish but that DONOVAN went onto say "*I'm going to kill somebody*".¹⁷

Conclusion:

The decision by the submarine to conduct the Duty Watch handover at 1200, vice the usual 0900, was sensibly made, allowing oncoming duty personnel more opportunity for sleep, to have breakfast and more time to recover from any excesses of the previous night. (TOR 1)

Finding:

The composition of each day's duty watch for the duration of the Southampton of the visit was published by the Visit Temporary Memorandum¹⁸. Whilst this nominated personnel for the requisite duty position it did not specify which shift they would undertake. Deciding which

¹⁶ Statement by Rating B, to the Hampshire Police dated 9 Apr 11. Quoted with his permission.

¹⁷ *Ibid.*

¹⁸ HMS ASTUTE Temporary Memorandum 20/11 – Visit to Southampton.

duty personnel kept which watch was delegated to the Duty Leading Hand, who would make the decision on the day; a task made easier if personnel volunteered to do the early duties. (TOR 1)

Conclusion:

DONOVAN's desire to go on 'guns first' could have been interpreted on the day as being a positive action to rebuild his character with his superiors, knowing that disciplinary investigation was imminent. It could also be interpreted as resulting from a desire to have an unbroken nights sleep. A duty starting at 1200 conducted in 3 hour shifts would result in the person keeping the first shift to have 'all night in' from midnight to 0600. (TOR 1 & 3)

Conclusion:

The need for duty personnel to have advance notification of which shift they will be keeping has been considered. There is no reason why personnel should not be detailed in advance for specific shifts within a duty. A shift starting at a later time does not allow personnel to drink more or for longer; the liability to carry a weapon starts as soon as the duty handover is completed. All personnel in the duty watch that are liable to be armed as part of the Deterrent or Reaction Force need to be in compliance with the alcohol regulations from the moment they become duty. It might be desirable but it is not essential that individual shifts by duty personnel are published beforehand and whether to do so should be left to the judgement of each ship's Executive Officer. (TOR 1 & 4)

Conclusion:

With the benefit of hindsight it is possible to theorise that DONOVAN's words whilst waiting for the bus or his bizarre actions during lunch, swigging vinegar from the bottle, were indicators upon which his colleague or superiors might have acted. (TOR 1 & 3)

Conclusion:

At the time and given that DONOVAN was always regarded by his colleagues as being slightly offbeat it was not considered by anyone that DONOVAN met that morning that he was behaving differently to his usual self. (TOR 1 & 3)

Conclusion:

The fact that DONOVAN's words or behaviour were not further acted upon by others is not considered by this Panel to be anything other than reasonable. However, this probably represented one of the last opportunities to 'break the chain of events'; a low tolerance for poor attitude or jokes concerning weapons inculcated from basic training (See **Recommendation D**) might have resulted in DONOVAN's words being referred to higher authority. (TOR 1 & 4)

28. Having had lunch onboard DONOVAN met the Duty Petty Officer (DPO), PO(TS) BROWN, at the weapon locker [REDACTED]. Due to the large number of VIPs in the Control Room the DPO elects to brief the ongoing Quartermaster and Armed Sentry immediately prior to them being issued with their weapons. The DPO assesses whether the ratings are in a fit condition to undertake their duty and, having done so, commences the weapon issue. As the weapon issue is taking place, CPO(TS) McCOY arrives wishing to speak to PO(TS) BROWN. Recognising that the weapon handover is underway, he waits until it is complete before engaging the DPO in conversation.

Finding:

The DPO assessed DONOVAN as being fit to undertake his duty based on a 'sniff and eyeball' test. A test based on whether DONOVAN looked drunk, was behaving oddly or smelt of alcohol. There was no alternative method of assessing DONOVAN's fitness to conduct his duty other than the judgement of the DPO. (TOR 1, 2, 3 & 4)

Conclusion:

Nothing about DONOVAN, as witnessed by the Duty Watch and DPO at the time had provided '*Just Cause*' for doubting his fitness to stand duty and, in doing so, effectively declare him unfit for duty; a disciplinary offence. (TOR 1 & 4)

Finding:

The subjective assessment by the DPO, made at the time, is not questioned; some others who also saw DONOVAN did not believe him to be drunk, although some thought he may have had a hangover. The forensic toxicology report cannot be conclusive as to the alcohol level present in DONOVAN at this time; the best estimate suggests there may have been 100 mg of alcohol per 100 ml of his blood, just over the drink drive limit of 80 mg of alcohol per 100 ml of blood. (TOR 1, 2, 3 & 4)

Finding:

The 1957 Naval Discipline Act offence of drunkenness rested on four limbs, including fitness to stand duty. These were largely repeated in the Armed Forces Act 2006, again with emphasis on being fit to perform a duty. The 2006 Act contained no specified limit of alcohol in breath or blood over which an offence is committed by conducting any duty. The 2006 Act relies on a subjective assessment of being 'Unfit for Duty'; it is this assessment of being unfit that was important in the eyes of the law, not the measured alcohol level. The Armed Forces Act 2011 creates new, technical offences; this issue will be discussed in much greater detail later in this Report. (TOR 1, 2 & 4)

Conclusion:

It cannot be concluded that alcohol played a significant part in the ensuing events. It is entirely probable that he was suffering from a hangover and was just over the drink drive limit but neither of these would account for his subsequent actions. (TOR 1 & 3)

Conclusion:

Finding an ideal location for a weapon locker in a submarine will always be difficult, an inevitable compromise between ease of access to the casing and the rest of the submarine, sufficient space to conduct the weapon handovers and implications for the easy movement of personnel. Conducting a weapon handover whilst an official reception is underway in the Control Room is feasible; the oncoming and offgoing sentries should not need to pass through the reception. Nonetheless, where possible such events should be deconflicted. In

this instance, a short delay to the sentry handover would have allowed guests to be clear of the Control Room before the issue of weapons took place. (TOR 1 & 4)

Finding:

All personnel onboard submarines will be accustomed to the sight of weapon handovers taking place; they do so adjacent to a main thoroughfare. They will be aware of the need not to pass through during the evolution or otherwise distract those involved. CPO(TS) McCOY, wishing to speak to PO(TS) BROWN, would be very familiar with this requirement as a qualified DPO himself. (TOR 1 & 4)

Conclusion:

Whilst CPO(TS) McCOY properly waited to one side before engaging PO(TS) BROWN in conversation it would certainly have been better had no other personnel been in the vicinity. (TOR 1 & 4)

Recommendation I:

That the importance of minimal distraction during weapon handovers, ensuring that the presence of non-essential personnel is kept to an absolute minimum, be reinforced to all ships and submarines. (TOR 1 & 4)

FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

PART THREE

The Management of Alcohol

29. Ideally, alcohol would only ever be consumed in moderation and within the stipulated limits. Currently, this ideal is not always met and the issue must therefore be managed, either by continuing the culture change regarding alcohol consumption or by enforcing the required limit, or both strategies in tandem. The full discussion is at Annex C.

Drinking in the Royal Navy

30. Over recent decades the culture of drinking in the Royal Navy has significantly changed with very little drinking now taking place at sea. In attack submarines, including HMS ASTUTE, there is effectively no drinking at sea; it is universally seen as entirely incompatible with a professional, safety orientated culture and a strict watchkeeping regime. Conversely, drinking ashore follows the same pattern as that found in wider British society with a tendency to drink heavily, a problem currently defined as binge drinking. The consequence of such heavy drinking is too often immediately apparent; resulting in fighting, injury and crime. It can also have subsequent implications for the work place. Recent studies have been conducted which conclude that young, military men drink generally far in excess compared to their civilian counterparts^{19,20}.

Finding:

The culture of drinking in the Royal Navy has changed significantly over many years. The aim, as concisely stated by the Health and Safety Executive, must be to develop a culture in which alcohol is enjoyed responsibly to '*protect the employee, ensure delivery of output and safeguard delivery of safety critical functions*'. (TOR 2)

Conclusion:

Fulfilling the aim of responsible enjoyment of alcohol in a safe environment will require continued and significant culture change. The positive change in drinking practices at sea now needs to be achieved additionally ashore. The culture change needs to happen across the military domain, not just in the Royal Navy. (TOR 2)

Recommendation J:

To be successful in engineering culture change, these initiatives must be led by significant and sustained management effort with clear commitment being exhibited at the highest leadership levels, all supported by an appropriate communication plan, and delivered professionally across diverse channels. (TOR 2)

Recommendation K:

Achieving culture change in the Royal Navy alone may not be feasible. Consideration should be made of the need to drive such cultured change forward on a Tri-Service basis. (TOR 2)

Finding:

¹⁹ Patterns of drinking in the UK Armed Forces; Fear, Iversen, Meltzer *et al.* published in *Addiction*, 2007, 102, 1749-1759.

²⁰ King's Centre for Military Health Report 'Alcohol Misuse in the Royal Navy', A Henderson, V Langston & N Greenberg, published in *Occupational Medicine*, 2009;59;25-31.

A key component of the Royal Navy's management of alcohol is that of education. Opinion is divided on the effectiveness of lectures, with the Academy of Medical Sciences reporting no great benefit²¹, whilst more anecdotally, the Alcohol and Substance Misuse Presentation Master at Arms is convinced that he makes a difference²². (TOR 2)

Finding:

The alcohol lecture is a 'one size fits all' presentation now delivered at a mandatory 3 yearly interval regardless of whether the audience are young, impressionable and still in the early days of their drinking career or older personnel whose drinking habits, for better or worse, are firmly established. (TOR 2)

Conclusion:

Lecturing those over the age of 30 every 3 years on drugs and alcohol is probably sufficient to provide the education they need to be effective managers. For those younger, the need is probably much greater, the education need becoming increasingly important as age decreases. If the aim is to educate young people who are those at risk of alcohol or drug misuse then it should be delivered more frequently, to ensure it will have an effect. (TOR 2)

Recommendation L:

The provision of the Alcohol and Substance Misuse Presentation should be reviewed to ensure that it is delivered with appropriate frequency to the relevant target groups. Ideally, younger personnel should be reminded annually of the impact that alcohol and drugs can have on the individual's health and career. (TOR 2)

Recommendation M:

The education programme should not be limited to the standard presentation. The message must be reinforced through Divisional interaction and other Personnel orientated channels of communication. (TOR 2)

Finding:

The induction process for New Entry Trainees does not offer any education or guidance to trainees over and above this standard lecture. (TOR 2)

Conclusion:

The alcohol education programme should aim to reach the young and impressionable trainees before they have had opportunity to develop the bad drinking habits associated with military personnel. (TOR 2)

Recommendation N:

The opportunity to inculcate new entrants with a responsible attitude to alcohol should be further investigated to allow assessment of whether additional alcohol awareness training might deliver positive effect within available time and resource. (TOR 2)

Alcohol and the Armed Sentry

²¹ Witness statement Officer D dated 16 Nov 11.

²² Witness statement Senior Rating B dated 14 Nov 11.

31. The AGPSI found a *'deep-set and instinctive professionalism in the RN's approach and individuals' attitudes to Armed Guarding*. Currently, there is no specified limit as to how much alcohol may be present in the bloodstream of an Armed Guard or other duty personnel. In comparison, the Railways and Transport Safety Act 2003 (Transport Act) specifies clear limits for alcohol, measured in breath, blood or urine; equating to the drink drive limit for the majority with a lower limit for those engaged on safety critical duties such as pilots.

Finding:

The alcohol consumption limit for Armed Guards at the time of the shooting onboard HMS ASTUTE was only specified as being that it should be minimised during the previous 24 hour period, as a guide - no more than 10 units, with no alcohol to be consumed in the 10 hours prior to the duty and none during the duty itself. (TOR 2 & 4)

Finding:

The alcohol consumption rules have been subsequently amended. The rule now states that no more than 5 units of alcohol are to be consumed in the 24 hours before an armed duty, with none to be drunk in the previous 10 hours. It is calculated that this consumption rule will ensure that any person, if tested, would adhere to the lower limit of alcohol specified by the Transport Act for aviation safety critical duties, i.e. pilots. (TOR 2 & 4)

Finding:

The requirement for personnel with a liability for armed duties to adhere to the alcohol consumption rule is reinforced by briefing the oncoming duty watch at least 24 hours in advance of their duty. This advance briefing, an outcome from the AGPSI, will undoubtedly reinforce the importance attached to adherence to the drinking rule. The effect will, however, inevitably be short lived; familiarity and the administrative burden will all serve to lessen its effect. The brief cannot guarantee compliance. (TOR 2 & 4)

Finding:

To support the introduction of the brief on alcohol consumption rules, an Alcohol Awareness Card (AAC) is now in course of issue to all ships and submarines to be further distributed to those undertaking Armed Duties. The card, designed to be carried at all times, details the alcohol consumption rules. (TOR 2 & 4)

Conclusion:

A submarine on a visit, such as HMS ASTUTE in Southampton where the crew are accommodated ashore, will find it difficult to deliver the advance consumption of alcohol brief at the opportune moment. Ideally, the brief would be given exactly 24 hours before a duty, when the drinking rules enter effect. This will be hard to achieve without recalling the next days duty watch to the submarine in order that they can be briefed before returning ashore, or alternatively being made to muster ashore, perhaps in the hotel. Neither course of action is considered appropriate. Those with a liability for duty should be briefed before proceeding ashore, notwithstanding that their duty may not be for 2 or even 3 days hence. They are additionally issued with their (AAC). This should suffice to ensure that the message on consumption rules is entirely understood. As previously discussed, good practice would also ensure that the well-being and behaviour of the duty watch was monitored during the course of the visit (see **Recommendation H**). (TOR 2 & 4)

Conclusion:

The requirement for an advance briefing on alcohol consumption, an outcome from the AGPSI, will undoubtedly reinforce the importance attached to adherence to the drinking rule. The effect will, however, inevitably be short lived; familiarity and the administrative burden will all serve to lessen its effect. The brief cannot guarantee compliance even though it will be additionally reinforced by the production of the AAC. (TOR 2 & 4)

Recommendation O:

The requirement for the brief on alcohol consumption to be given to Armed Guarding personnel at least 24 hours ahead of their duty be reviewed by the end of 2012 to ensure that its intent and purpose are still being met. (TOR 2 & 4)

The Armed Forces Acts

32. The Armed Forces Act 2006 was worded such that an offence was committed if a person, through drugs or alcohol, was unfit to perform a duty; this being one of the limbs upon which the offence of drunkenness originally rested under the 1957 Naval Discipline Act. Importantly, the test of such fitness relies on the subjective assessment of a senior officer, ultimately the Commanding Officer but normally delegated to the Officer of the Day.

Finding:

The subjective assessment of fitness for duty was appropriate when the aim was to prevent obviously drunk personnel returning to their ship and reporting for duty. The offence required no proof other than the opinion of the Duty Officer and a medical assessment that the cause was not due to illness or prescribed medication. (TOR 1, 2 & 4)

Conclusion:

The assessment of fitness for duty is not able to differentiate between someone who is only just over the drink drive limit and someone who is just over the lower limit specified by the Transport Act for Pilots. Both would probably pass a 'sniff and eyeball' test. (TOR 1, 2 & 4)

Finding:

The introduction of new rules for alcohol consumption for armed guards, designed to deliver personnel with lower alcohol levels in their system has not yet been matched by a test capable of detecting whether such rules have been obeyed. (TOR 2 & 4)

Conclusion:

Judging that a person is unfit to perform a duty requires moral courage by all those in the command chain, including young and still inexperienced leaders. Witnesses report that such moral courage is not obviously lacking amongst Leading Hands or Senior Rates but making adverse judgements will always be hard for some, particularly when the consequences for a colleague or messmate might be severe. (TOR 1, 2 & 4)

Recommendation P:

That the need for "moral courage", an essential part of 'grit', as a key attribute for all Leading Hands, Senior Rates and Officers continues to be reinforced at

every opportunity, particularly during leadership and divisional courses. (TOR 1, 2 & 4)

33. The Armed Forces Act 2011, having received Royal Assent, has introduced the ability for a Commanding Officer to conduct a 'test for cause' on duty personnel. He may only consider such a test if the *specified duty* entails risk of death, serious injury, damage or environmental harm. The definition of what constitutes a specified duty continues to be developed on a Tri-Service basis; the inclusion of Armed Sentries is expected.

34. Having decided which duties are categorised as specified duties it will then be necessary to determine which limits will apply to each duty. For an Armed Sentry it is likely that the lower limit will apply, of 9mg per 100 ml of breath, as used in the aviation domain for safety critical duty.

Finding:

The Armed Forces Act 2011 will allow for scientific testing of alcohol levels. It will be an offence for a person to conduct a specified duty with an alcohol level over that prescribed. This Act properly aligns the Armed Forces with other civilian safety critical areas such as Aviation and Shipping. (TOR 2)

Finding:

If a person obeys the current rules concerning alcohol consumption, no more than 5 units in the 24 hours prior to the duty etc. then they will meet the more stringent requirements proposed for this specified duty. (TOR 2 & 4)

Finding:

The 2011 Act allows the Commanding Officer to require a person to undertake a test when the Commanding Officer or delegated authority has *reasonable cause* to believe that an offence has been committed. The *reasonable cause* may be just a suspicion that the person in question has been ashore, drinking, the night before. (TOR 2 & 4)

Finding:

The Preliminary breath or impairment test can only be administered by a Service Policeman, including Coxswains. Further training for the Coxswain branch will be necessary for them to be qualified and able to administer these tests. (TOR 2 & 4)

Conclusion:

In practice, the test to determine *reasonable cause* will not be dissimilar to that currently used to judge fitness for duty. If someone presents for duty as being obviously drunk then the decision to order a scientific breath test is straightforward and easily made. It is entirely possible that another person might report for duty displaying no outward signs of intoxication and yet would, if tested, be found to be above the limit. (TOR 2 & 4)

Conclusion:

Declaring that there is *reasonable cause* for test will require the senior officer to display the same traits of moral courage as are required now, although the onus of proof will rest with the scientific test rather than subjective opinion. (TOR 2 & 4)

Conclusion:

Applying this 2011 Act retrospectively to DONOVAN in HMS ASTUTE does not deliver a different outcome. When DONOVAN reported for duty, he was assessed by the DPO as being fit for that duty. Under the 2011 Act, the same DPO would now apply the same subjective judgement to see if there was *reasonable cause* to test DONOVAN further. Assuming his judgement was consistent then it is unlikely that *reasonable cause* would have been found for DONOVAN to be further tested and he would have been issued with a rifle. (TOR 1, 2 & 4)

Conclusion:

The introduction of a lower limit is only of use if there is a mechanism by which compliance can be reasonably assured. Such compliance may be achieved through self-certification or the imposition of scientific and evidential testing when a *reasonable cause* to do so has been established. Neither of these approaches provides significant deterrent to those whose drinking falls into the bracket between being over the proscribed limit and yet not sufficiently over to warrant action, through dint of *reasonable cause*, by others. (TOR 2 & 4)

Conclusion:

Compliance with the lower alcohol limits for safety critical duties could be achieved through 100% mandatory testing before the duty is commenced. (TOR 2 & 4)

Conclusion:

Deterrence would be similarly achieved through compulsory testing of all duty personnel undertaking specified duties. It could also be achieved through a random testing regime conducted with sufficient rigour as would offer good opportunity to identify an offender. (TOR 2 & 4)

Conclusion:

Compulsory testing before undertaking a specified duty need not be, in the first instance, evidential. It need only be done to sufficient accuracy to remove any doubt as to whether a person should commence a duty or not. The use of breathalysing equipment fitted in a car that will not allow the engine to be started until a breath test proves negative provides excellent example. Technology exists which would allow sufficiently accurate testing to be made possible at the duty station. For the Armed Guard it would be necessary to blow into a device or equipment, perhaps at the weapon locker itself, and achieve a negative result, a green light, before being issued with a weapon. A failure, or red light, does not prove an offence or guilt but would remove the subjective element of *reasonable cause*. It would prevent those over the proscribed limit from being issued with a weapon and act as the pointer for subsequent testing to be delivered by the Service Police. Such a test takes away the element of doubt and potentially wrong assessments made where moral courage falls short of the expected standard. Had DONOVAN been given this test he might not have been issued with a rifle. (TOR 1, 2 & 4)

Finding:

The AGPSI recommended that "*Breath testing for alcohol should be available to form part of the assessment of fitness to undertake armed guarding*". Unfortunately, a typographical error resulted in the recommendation not being included in the summary of recommendations presented by that SI. (TOR 4)

Recommendation Q:

The introduction of the Armed Forces Act 2011 requires further work to be undertaken across the Armed Services on the definitions of Specified, Safety Critical duties and the alcohol limits that should apply. This work must further consider the need to introduce a testing regime that allows such limits to be reasonably enforced. This might be:

- a. A compulsory 100% evidential test;**
- b. A compulsory but not necessarily evidential test, or;**
- c. A robust random testing policy. (TOR 2 & 4)**

Alcohol Testing – Case Studies

35. This SI has considered the experience of 2 other organisations with regard to alcohol testing. The first being the Royal Australian Navy (RAN), where parallels of a culture of heavy drinking amongst the military and especially Naval personnel are evident. The second is that of Babcock Marine, since they provide the civilian employees who work closely with naval colleagues in the Clyde Submarine Base. The full details of these case studies are appendices to Annex C.

Finding:

The RAN introduced a new alcohol management policy in 2004 called 'Safe Spirit'. The policy called for drinking to continue at sea and ashore but in a controlled fashion with a strong emphasis on compliance. (TOR 2)

Finding:

Fundamental to ensuring compliance with the alcohol consumption rules in the RAN was the introduction of random breath testing. (TOR 2)

Finding:

The RAN 'Safe Spirit' programme, underpinned by random alcohol testing was not a panacea to solve all alcohol related problems. A recently published investigation into the behaviour of Australian sailors from HMAS SUCCESS²³ whilst ashore concluded that "*the considerable volume of alcohol that was consumed by many members of the crew was a factor contributing to virtually every untoward incident*". "*It is doubtful, however, whether behaviour on this deployment was very different in that respect from that occurring on other deployments and other naval vessels or, indeed, amongst groups of young people on holiday*". (TOR 2)

Finding:

The HMAS SUCCESS Inquiry also noted that some sailors had managed to evade the random breath testing regime. It concluded that "*Effective onboard testing of those on duty, coupled with a genuinely random program, including where appropriate all-of-ship testing, is a necessity*". (TOR 2)

Conclusion:

²³ HMAS Success Commission of Inquiry, Chapter 5, Conclusions and Recommendations.

The RAN has followed a similar path in needing to better understand and manage the consumption of alcohol by their personnel. They have determined that random testing, largely managed at the unit level by the Commanding Officer, is the way forward but have also recognised that such a system does not provide a complete guarantee of sobriety amongst duty personnel. (TOR 2)

Recommendation R:

In determining future alcohol policy for the Royal Navy, including the appropriateness of a testing regime, due regard should be had for lessons identified from the RAN. The opportunities presented through Staff Talks to learn from their experience should be fully exploited. (TOR 2)

36. Babcock Marine manage the dockyard facilities provided at the Clyde Submarine Base where it might be expected that similar standards for drug and alcohol use might apply to civilian and uniformed personnel.

Finding:

Babcock Marine have a alcohol testing policy which allows for random testing using calibrated devices that meet the criteria necessary to allow internal disciplinary action to be undertaken. (TOR 2)

Conclusion:

Within the Clyde Submarine Base it would appear that the alcohol testing regime is significantly more onerous for all Babcock employees than it is for Royal Navy personnel. Whilst some Babcock employees will be engaged in safety critical activities none will be armed, although this is where the highest standards of sobriety should apply. (TOR 2)

Recommendation S:

The Royal Navy alcohol testing policy for duty personnel should be at least as demanding as that imposed for other duty workers in the home port dockyard. This recommendation recognises that, unlike civilian employees, many Naval personnel are required to live, in ships or barracks, within the boundary of the dockyard and therefore any testing regime must be appropriately targeted and relevant to specific safety critical duties. (TOR 2)

FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

PART FOUR

The Armed Guarding Policy Service Inquiry

37. The Armed Guarding Policy Service Inquiry (AGPSI) Report has been examined to ensure consistency with the findings and recommendations of this Report. Two findings of the AGPSI have been identified which, in the opinion of this Panel, require further study. These are listed below. The remainder of the AGPSI is fully agreed and unchanged as a result of this SI.

Carriage of Loaded Weapons

38. The Recommendation made by the AGPSI that weapons should be unloaded when moving between decks has been considered in the submarine context.

Finding:

The AGPSI considered “carriage of a loaded weapon between decks in anything other than an emergency to introduce unnecessary risk, and that any individual on Armed Guarding duties who needs to go between decks should first unload the weapon and place the magazine in a webbing belt”. (TOR 4)

Finding:

An Armed Guard keeping his duty on a submarine casing is normally issued with his weapon and magazine below decks. Once his weapon is loaded he then proceeds to the casing. There are risks attached to carriage of a loaded weapon up the ladder to the casing. There are also risks in loading the weapon when on the casing, including darkness, cold and rain. (TOR 4)

Conclusion:

The risks inherent in loading the weapon on the casing may outweigh those incurred in carrying the weapon between decks. (TOR 4)

Recommendation T:

The risks of loading a weapon on the submarine casing, at night, exposed to the elements, be properly assessed and contrasted against the risks of carriage of a loaded weapon between decks. Once assessed then appropriate guidance be issued to the submarine flotilla. (TOR 4)

GP Corroboration of Recruits Medical History

39. The disparity between the Army approach, requiring GP corroboration of a candidates medical history, with Royal Navy policy, stating that is not required, has been previously discussed. The AGPSI considered that corroboration would not add significant value, yet the Army obviously consider that such value is added. This disparity should be resolved to ensure current policy is cost effective when set against potential risk (see **Recommendation A**).

Alcohol Testing

40. The AGPSI recommended that “Breath testing for alcohol should be available to form part of the assessment of fitness to undertake armed guarding” and deemed this recommendation to be a priority. As previously discussed, this SI also strongly advocates compulsory or random alcohol testing as a high priority (see **Recommendation Q**).

FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

SUMMARY

41. This SI was convened to consider the circumstances of the shooting incident onboard HMS ASTUTE with specific TOR. The aim of the Panel has been, first and foremost, to try and identify what changes could prevent similar tragedy in the future. The Panel has concluded that:

- There was nothing about DONOVAN, his character, career or experience that was so remarkable that any sensible prediction could have been made, by an individual or the Service, that he might pose future risk. (TOR 1 & 3)
- It cannot be determined whether alcohol was a definite factor in the ensuing tragedy. Whilst positing that alcohol played a part it remains entirely feasible that DONOVAN would have followed the same course of action completely sober. (TOR 1, 2 & 3)
- Heavy and binge drinking is prevalent in British culture. These excesses are magnified within the military. The culture of drinking has changed substantially over recent decades but, as yet, falls far short of ensuring sobriety for all. Efforts to continue such a culture change will require continued significant investment in leadership and education. (TOR 2)
- Personnel employed on armed duties ordinarily display nothing but the highest standards of a conscientious and professional approach to their responsibilities. It is possible for personnel, particularly those who are young and less experienced, to find themselves, despite warnings, bowing to the social pressures of the evening before a duty. They may subsequently be reporting for duty over the required alcohol limit. (TOR 2 & 4)
- The ability for a supervising officer to detect such breach of limits is coarse and only of use when the outward signs of inebriation are obvious. The recent passing of the Armed Forces Act 2011 introduces alcohol testing when there is deemed reasonable cause. The test for reasonable cause, in all practice, is likely to be as limited in effect as that currently used. (TOR 2 & 4)
- The Royal Australian Navy has undergone a similar journey, concluding that random alcohol testing is a necessary tool to deliver compliance. Random testing is similarly employed by the civilian contractors who manage the dockyard ports on the Navy's behalf. (TOR 2 & 4)

The Panel has made a number of recommendations concerning the management of submarine operational stand off periods, best practice during weapon handovers and the delivery of alcohol education. The most important of these recommendations is that the Royal Navy should **introduce alcohol testing, at least for those engaged on safety specific duties, either compulsorily for all or on a random basis to deliver robust deterrent.** It should be noted that this echoes and should therefore serve to strengthen, a recommendation made previously by the Armed Guarding Policy Service Inquiry. (TOR 1, 2 & 4)



Navy Command

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20111010/DCINCFLEET

To the President and Members of the Service Inquiry 10 October 2011

CONVENING ORDER

1. A Service Inquiry is to be held under Section 343 of the Armed Forces Act 2006.
2. The purpose of this inquiry is to investigate the facts and circumstances of the shooting incident onboard HMS ASTUTE at Southampton on 8 April 2011.
3. The Service Inquiry panel is to assemble at NCHQ on 12 October 2011 at 0900.
4. The Service Inquiry panel comprises:
 - President:
 - Board Member A
 - Members:
 - Board Member B
 - Board Member C
5. The legal adviser to the inquiry is Legal Adviser A (DNLS Legad [East]) supported by Officer E (DNLS Service Inquiries Legislation and Training SO1).
6. The inquiry is to investigate and report on the matters specified in its Terms of Reference (TORs - attached at Annex A) and is strictly to comply with them. It is to record all evidence and express opinions only as directed in the TORs. The Inquiry is to be conducted in accordance with JSP 832, QRRN Chapter 57 and other Service guidance.

7. Advisers and/or observers may attend the inquiry²⁴ at the discretion of the President of the inquiry panel, subject to any conditions which may be imposed and in accordance with JSP 832. The legal adviser may attend as necessary to provide advice to the panel.
8. The inquiry is to consider such material as is necessary to form accurate conclusions. It may call for expert advice on any matter, should this be considered appropriate. The Police investigation report into the incident may be consulted, with the concurrence of the Hampshire Constabulary and the Chief Crown Prosecutor for Wessex, and with legal advice as to the purpose, use and status of that report and its enclosures in this Service Inquiry.
9. Progress reports should be submitted to the Convening Authority, the Single Service Inquiry Co-ordinator (SSIC) (DNPers) and Fleet-DCS Inquest Support, every 14 days after the inquiry is convened. This will enable the ISS to submit periodic updates to the NOK and other interested parties on the status of the Inquiry.
10. When the President considers that the panel has fulfilled its TORs he is to ensure that a report is prepared and signed by all members of the panel, and is to provide that report to the Convening Authority by not later than 5 Dec 2011. In the event that some elements of the inquiry may not be achievable by that date, or may be precluded by the criminal proceedings, legal advice is to be sought and the Convening Authority informed.
11. The inquiry should not attribute blame or express a view on any legal liability, whether criminal or civil. Witnesses are to be treated with particular sensitivity.
12. NCHQ is to provide facilities, equipment and assistance suitable for the nature and duration of the inquiry. Costs associated with running the Inquiry are in the first instance to be attributed to N5299E.

Signed on original

G M Zambellas DSC
Vice Admiral
DCINC

Annex:

- A. HMS ASTUTE Shooting Incident Service Inquiry Terms of Reference.

²⁴ See The Armed Forces (Service Inquiries) Regulations 2008 - Regulation 17.

SERVICE INQUIRY – TERMS OF REFERENCE

The Service Inquiry panel are to:

1. Review the shooting incident in HMS ASTUTE in order to determine whether and to what extent the incident could have been foreseen, mitigated or prevented, identifying lessons from current processes and procedures, aiming to prevent possible recurrence.
2. Review the policy, practice and procedure as regards the consumption of alcohol, with specific reference to the incident in HMS ASTUTE, but encompassing the wider Service, and in the light of forthcoming policy and legislative changes.
3. Investigate the Service history, employment and experience of AB Donovan, to establish what information was, or might reasonably have been, known and to determine whether an opportunity arose – or should have arisen - to identify a threat of harm to others.
4. Review the incident against the earlier Armed Guarding Service Inquiry, convened in April 2011, and work completed or under way as a result, to determine whether any aspect of the incident related to wider policy, practice or procedure, including e.g. supervision, regulatory practices and Command actions, now merits further analysis and development.

SUMMARY OF RECOMMENDATIONS

SERIAL	RECOMMENDATION	PRIORITY	TOR
A	Further work to better understand the costs, benefits and risks of relying on a recruit's self-declaration of medical history, without then corroborating with the GP should be undertaken. There is a clear difference of opinion on this issue between the Army and the other 2 Services which demands further examination.	Routine	1 & 4
B	A permanent naval psychiatrist should be provided in NEPTUNE to improve the level of psychiatric care. This need is only likely to increase as the Clyde Submarine Base at Faslane grows to become the Submarine Centre of Specialisation.	Routine	1
C	Subject to the pilot scheme being assessed successful, then the policy of allowing self-referral by naval personnel direct to a DCMH should be rolled out across the Service.	Routine	1
D	That the requirement to consider an individuals attitude as a <i>contra-indication</i> towards their employment on armed duties be additionally reinforced on Divisional and Leadership courses.	Priority	1 & 4
E	Submariners are not expected to live onboard whilst in base port; similar standards should at least prevail whilst visiting another port. Current domestic arrangements for submarine visits should therefore continue.	Routine	1 & 2
F	Ships and submarines continue to be reminded of the need to exploit any opportunities, sporting, cultural or adventurous to encourage positive and healthy activity outside of pubs and clubs.	Routine	1 & 2
G	Further study should be undertaken to assess the impact of extended submarine deployments and ascertain the benefit of current and potential normalisation techniques and interventions.	Priority	1 & 2
H	The good practice of sighting all personnel, at least daily, in order to deliver a reasonable level of 'duty of care' during OSPs to be fostered within the submarine flotilla.	Routine	1 & 2

SERIAL	RECOMMENDATION	PRIORITY	TOR
I	That the importance of minimal distraction during weapon handovers, ensuring that the presence of non-essential personnel is kept to an absolute minimum, be reinforced to all ships and submarines.	Priority	1 & 4
J	To be successful in engineering culture change, these initiatives must be led by significant and sustained management effort with clear commitment being exhibited at the highest leadership levels, all supported by an appropriate communication plan, and delivered professionally across diverse channels.	Routine	2
K	Achieving culture change in the Royal Navy alone may not be feasible. Consideration should be made of the need to drive such cultured change forward on a Tri-Service basis.	Routine	2
L	The provision of the Alcohol and Substance Misuse Presentation should be reviewed to ensure that it is delivered with appropriate frequency to the relevant target groups. Ideally, younger personnel should be reminded annually of the impact that alcohol and drugs can have on the individual's health and career.	Routine	2
M	The education programme should not be limited to the standard presentation. The message must be reinforced through Divisional interaction and other Personnel orientated channels of communication.	Routine	2
N	The opportunity to inculcate new entrants with a responsible attitude to alcohol should be further investigated to allow assessment of whether additional alcohol awareness training might have positive effect within available time and resource.	Priority	2
O	The requirement for the brief on alcohol consumption to be given to Armed Guarding personnel at least 24 hours ahead of their duty be reviewed by the end of 2012 to ensure that its intent and purpose are still being met.	Routine	2 & 4

SERIAL	RECOMMENDATION	PRIORITY	TOR
P	That the need for “moral courage”, an essential part of ‘grit’, as a key attribute for all Leading Hands, Senior Rates and Officers continues to be reinforced at every opportunity, particularly during leadership and divisional courses.	Routine	1. 2 & 4
Q	<p>The introduction of the Armed Forces Act 2011 requires further work to be undertaken across the Armed Services on the definitions of Specified, Safety Critical duties and the alcohol limits that should apply. This work must further consider the need to introduce a testing regime that allows such limits to be reasonably enforced. This might be:</p> <ul style="list-style-type: none"> a. A compulsory 100% evidential test; b. A compulsory but not necessarily evidential test, or; c. A robust random testing policy. 	High Priority	2 & 4
R	In determining future alcohol policy for the Royal Navy, including the appropriateness of a testing regime, due regard should be had for lessons identified from the RAN. The opportunities presented through Staff Talks to learn from their experience should be fully exploited.	Routine	2
S	The Royal Navy alcohol testing policy for duty personnel should be at least as demanding as that imposed for other duty workers in the home port dockyard. This recommendation recognises that, unlike civilian employees, many Naval personnel are required to live, in ships or barracks, within the boundary of the dockyard and therefore any testing regime must be appropriately targeted and relevant to specific safety critical duties.	Routine	2
T	The risks of loading a weapon on the submarine casing, at night, exposed to the elements, be properly assessed and contrasted against the risks of carriage of a loaded weapon between decks. Once assessed then appropriate guidance be issued to the submarine flotilla.	Routine	4