

VVAG - VIETNAM VETERANS ACTION GROUP



From the Desk of the Secretary on behalf of the members VVAG

5th February 2009

For the New Zealand Government Members of Parliament and Crown Law

The New Zealand Government for decades have failed in their “Duty of Care and are guilty of Criminal Negligence” to the Vietnam Veterans and their families.

1/ Section 25 of the Crimes -:

Ignorance of law is no excuse to commit a crime

2/ Section 116 of the Crimes Act-:

Conspiring to defeat and pervert the course of justice

3/ Section 145 of the Crimes Act-:

Criminal nuisance (part 1)

4/ Section 160 of the Crimes Act-:

Culpable Homicide (part 2a and 2b)

5/ Section 164 of the Crimes Act

Acceleration of death

6/ Section 165 of the Crimes Act-:

causing death that might have been prevented

7/ Breaches of Health and Safety Act-:

Part 2 (All practical steps) failed to act

8/ Breaches Health and Safety Act-:

Application of Act to the Crown (parts 1 & 2)

9/ Breaches of the Geneva Convention-: War Crime

It is a breach of the Geneva Protocol 1925 which prohibits the use(liquids, substances or similar in chemical warfare. Agent Orange is one such chemical/herbicide.

10/ Breaches of the Helsinki Agreement and the Geneva Protocol-: War Crime

The experimental use of drugs is strictly forbidden without consent of the person. The use of Dapsone in conjunction with Paludrin as an anti-malarial suppressant during the Vietnam War was such a breach. Dapsone was a Leprosy treatment and we were not informed of the well-known side effects as an immune suppressor. Granulocytopenia, a blood disorder, white cells are depleted of infection fighting enzymes thus seriously depleting the bodies ability to fight infections including Cancer.

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These are just some of the breaches of Failure of Duty of Care and Criminal Negligence. What are you going to about this disgraceful situation?

In the words of the John Key at Tribute 08 in his address to the Vietnam Veterans and their families quote-:

“ New Zealand had a responsibility to these people. They were asked by their country to do a dangerous job and they did so with honour and dignity. The treatment they received both in Vietnam and in the years after their return to New Zealand was unfair and unreasonable”

The time has come to walk the talk and help repair some of the damage done to the Vietnam Veterans and their families by consecutive New Zealand Governments.

We were posted by our Government to active service in Vietnam War to support our allies as a part of the then ANZUS Pact. The New Zealand Government taxed us in Vietnam. This not right, and as soldiers we have been discriminated against. The Australians who we were attached to under 1 ATF command were not taxed and nor were the Americans. Part of our job entailed security patrols and setting up ambushes it was kill or be killed. The enemy also ambushed us and soldiers were killed. We were armed troops in a foreign country. That is War.

Tax returned

It's a suggestion that the first thing to do in righting the wrongs of the past is to give our Tax back with compounded interest. This would be a good start and immediately help the Vietnam Veterans and their families. The following is a simple and effective way of doing that, here are 2 options-:

1/ All personnel who posted to active service in Vietnam including the deceased Veterans NOK to receive a one off ex gratia pay of \$8000.00. Allowing for the fact that there were allegedly 3285 persons that served in Vietnam the cost would be \$26,280,000

2/ All combat personnel regardless of the time spent there a one off ex gratia payment of \$10,000. All support staff who were there more than a month an ex gratia payment of \$5000. This is estimated to cost between \$15,000,000 and \$20,000,000 depending on the claims. This includes NOK of the deceased.

This co-ordinated with VANZ who can verify the details could be processed through the tax department with documentation verifying the date of service and unit.

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Health issues

It's a suggestion the 2nd order of priority is for the Government to issue to the Vietnam Veterans and family members would be a special Gold Card that covers all health issues with the Vietnam Veterans and their families

With nearly 4 decades of Criminal Negligence and Failure of Duty of Care it would be right thing to do and will considerable help the Vietnam Veterans and their families and also prevent unnecessary deaths through Government neglect. The estimated ongoing costs of the special Gold Card for this on the estimated 1400 persons registered with VANZ on a disability pension are-

a/ With the estimated 1265 personnel not on a section 23 the related costs, specialists, travel, accommodation and meals-: $1265 \times \$1000 = \$1,265,000$ per year.

b/ Section 23 recipients estimated at 135 personnel, related costs specialists, travel, accommodation and meals-: $135 \times \$2000.00 = \$270,000$ per year.

The 3rd most important thing to do is to look after the health of our children, grandchildren and future generations. There has been significant DNA passed onto our children and also has been found in our grandchildren. Both parents can pass this on. They are the innocent victims in this tragedy. This DNA damage is proving intergenerational and the current Trust fund is grossly inadequate to service the needs of the Vietnam Veteran Community:-

It is suggested that raising the loan to the Vietnam Veterans and Families Trust to \$50,000,000 would create enough interest to adequately service the Vietnam Veteran Community. This would be a loan increase of \$43,000,00.

About 25% of the Veterans that served in Vietnam are no longer with us and have died at an early age because of successive Governments “Failure of Duty of Care”.

TCCD/Dioxin poisoning can be directly linked to the majority of the deaths”

Phuoc Tuy province where most of us were stationed under the First Australian Task Force Command (1ATF) out of Nui Dat was a part of 111 Corp the most heavily sprayed area in Vietnam. Some 55,000,000 litres of Agent Orange out of the estimated 80, 000,000 litres sprayed in Vietnam was sprayed in 111Corp. Also prodigious amounts of Agent Blue which had an Arsenic base and Agent White which was a mixture of Chlordane/ 24D. Any of these herbicides are deadly on their own, especially with the damage to the immune system done by Dapsone.

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A perusal of the Spray maps verifies the accuracy of this statement for spraying. The use of deadly chemical/herbicides is against the Geneva Protocol and this is a War Crime

This was used and sprayed on our own troops and certainly since the war ended the ongoing deadly effect from the cocktail of poisons we were exposed to, has been the catalyst to the majority of known causes of deaths for the Veterans. This is Criminal Negligence and Failure of Duty of Care

The damage done to the Vietnam Veterans and their family's health is not acceptable and demands adequate ex gratia compensation from the New Zealand Governments for the Misfeasance and Criminal Negligence of 40 years. The lives lost because of birth defects/PTSD, for the various forms of Cancer that many are and have suffered or died from, for the heart problems, for breathing problems, rashes and skin issues are still rampant in the Vietnam Veteran community. The unnecessary grief and hardship that this has caused, the DNA damage. These are some of the health issues.

It is reasonable to expect the Government to address this issue with an ex gratia payment of \$1000.00 per % point of war related disabilities which are on record. The persons on a section 23 to be paid up to the maximum of 160% depending on their % rate i.e. 100% + 30% section 23 = an ex gratia payment of \$130,000. All other persons on a War Disability pension to be paid at the rate of their current pension i.e. 10% \$10,000 – 100% \$100,000. The cost is estimated at \$104,950,000

This will help all those Vietnam Veterans in desperate need, it will go along way in easing the pain and suffering of the Vietnam Veterans and their families. If the huge amount of miscarriages, still born, from the wives, partners and children were taken into account the deaths for the Vietnam Veteran community would be well into the thousands. The birth defects of those children still living demands compensation. *The DNA damage does not have a price but the enormous amount of pain and suffering unnecessarily inflicted on the innocent victims from the gross negligence from the Governments misfeasance, demands compensation.*

Documented evidence, our health database, written and oral submissions and video evidence back up the statements made in this submission are available on request.

See report on www.vvanz.com the history of 245T in NZ, This fully explains the failure of Chemical companies to disclose vital information and Governments cover up

I have the mandate to represent 800 or so members of VVAG but expect that all the Vietnam Veteran Community will benefit from this submission

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The New Zealand Government have been aware of dangers of TCCD for decades and with held information on Dioxin poisoning to the detriment of the Health of the Vietnam Veterans. This has led to unnecessary loss of lives of not only of the Vietnam Veteran but also family members. This is Criminal Negligence and is also in breach of the Health & Safety Act and this Act binds the Crown.

In 1983, Geoff Braybrooke a Vietnam Veteran and also a Parliamentarian introduced a Private Members Bill to investigate the health of the Vietnam Veterans.

A Bill Intituled

An Act to establish a Commission of Enquiry to investigate the extent of the damage that may have been caused to the health of New Zealand servicemen by the use of herbicides and other chemicals during the Vietnam war.

In 1990 Geoff Braybrooke again introduced a Private Members Bill for an investigation into the health of the Vietnam Veterans.

A Bill Intituled

An Act to establish a Commission of Enquiry to investigate the extent of damage that may have been caused to the health of New Zealand Vietnam Veterans by the use of herbicides and other chemicals during the Vietnam War.

Both Bills were defeated. Proving that the NZ Government once again were not interested in justice for the Vietnam Veteran Community, this is deliberate collusion with intent to pervert the course of Justice. Misfeasance.

The purging of medical records of the Vietnam Veterans proves once again the collusion and intent to pervert the course of justice. This example of bungling incompetence/deliberate misfeasance, which has led to unnecessary delays in obtaining a war disability pension and on occasions causing the death of the Veteran

The New Zealand Government Failed to warn the Vietnam Veterans and their families of the dangers of Dioxin poisoning and they failed to provide a comprehensive medical check up. Dioxin is carcogenic, tetragenic and mutagenic and is the most toxic chemical known to man.

This alone would have saved many lives and saved the Veteran and their families a great deal of preventable grief. The current one off medical check up is 40 years to late and does not cover the DNA damage done to the Veterans or family members.

The waiting period for reimbursement of scripts and travel expenses is ridiculous. A simple thing like putting the reimbursement as a direct debit should not take months. Most of us are just pensioners and can not afford to wait so long for reimbursement and unnecessary hardship has resulted because the veteran has not been reimbursed his previous scripts or travel entitlements in time.

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In comparison with our close allies the Australians whom the majority of us, all served together with under 1ATF(Australian Task Force) command. The NZ Vietnam Veteran has been badly discriminated against and the denial of our rights for 40 odd years is not good enough. A person on a section 23 in NZ would be classed as TPI in Australia as they would be 70% (totally permanently incapacitated) due to war related service and unable to work a full time job. This equates to about \$AU850.00 Australian a week, this about \$AU300.00 more than the New Zealand Government pay us, as well they also have a Gold Card which covers all health issues. Free car registration in some states and some free travel by public transport ie buses, trains & ferries. Remembering now most of us are pensioners. The current pension is a joke and is grossly inadequate. A decent liveable pension is an entitlement and should be paid to the Veteran regardless of where they choose to live especially those living in Australia. Australian Veterans living in New Zealand get all their entitlements but New Zealand Veterans living in Australia are being discriminated against. Especially with health care. Some specialists in Australia are refusing to help NZ Veterans because of very slow payment for their services by VANZ. This is causing hardship and forcing ill Veterans to travel much further to see a Specialists "Failure of Duty of Care"

A pay increase of \$200.00 a week for anyone with a section 23 and a \$120.00 a week to all other Veterans on a War disability pension including for all Vietnam War Widows.

The AOJWG discriminated against the Maori Vietnam Veterans as well as many Pakeha Vietnam Veterans in not allowing a meeting/hui to held on a Marae
The Marae is the traditional meeting place for the Maori People.

The unnecessary bi product of TCCD has had far reaching effects not only on the Soldiers that were sent by their Government to Vietnam but also many of the public including Paritutu residents and workers. A way to deal with this would be to set up a Trust on similar lines to the VVFT. Then all dioxin sufferers in NZ would benefit.

For decades successive NZ Governments have deliberately misled the public and avoided the responsibility for their collusive criminal actions. The NZ Government continued to allow the manufacture of the deadly herbicide for 17 years after it was banned in for use in Vietnam because of all rapidly increasing the dioxin related illnesses. In 1970 Australia, America and Canada bought in restrictions for the use of 245T. In 1979 the use was banned in the USA as the improved methods of detection of the amount of dioxin in the chemical showed unacceptable levels. Whilst there was not an accepted method of properly determining the levels. The New Zealand Government allowed the herbicide/chemical poison to be manufactured for another 8 years. The period of manufacture extended from 1948-1987.

This is Criminal Negligence

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The DNA damage tests conducted by Professor Rowlands at Massey University in the about 2002 on a small study comparison group showed that 24 out of the 24 tested had DNA damage.

It is most likely that the greater majority of us who served in Vietnam have DNA damage and this is proving intergenerational and has directly caused some suicides, not only to the Veteran but also to family members.

The New Zealand Government failed to follow up on the recommendations from the Massey University Study on the DNA damage.

This inaction is further proof that the New Zealand Government have- :
“Failed in their Duty of Care”

The following information is a an estimation of the approximate costing as a part of the compensation package for all Vietnam Veterans and their families:--

It is suggested that all Vietnam Veteran War widows whose husbands/partners that have died from a War related disability inclusive of all Cancers, heart related problems, breathing problems, hypertension, blood pressure and PTSD/suicide are to receive an ex gratia payment. It has been estimated that 700 widows/partners would have to prove their eligibility by either having being married to the Veteran or mother the children of the Veteran or can prove they have nursed/looked after the deceased Veteran as a partner. All war widows/partners received the ex gratia payment of \$25,000 as it is most of the death of the deceased veterans can be linked to Dioxin poisoning. The estimated cost for this is \$17,500,000

Scientific evidence has proven that dioxin can be linked to all Cancers

The Vietnam Veterans & Families Trust fund (VV&FT), the \$7,000,000 loan under the MOU to be increased to \$50,000,000 to allow for adequate assistance for the health and well being of all the Vietnam Veterans children, family, now and all future generations. The current amount in grossly inadequate to service the needs. With today's interest rates, and likely to get worse before it improves means a large injection of a cash loan to give an adequate income to service the needs of the Vietnam Veteran community

Summary of approximate ongoing costs per year including a special Gold Card

Increase in War Pension rate for Vietnam Veterans including War widows/partners
Estimated at 1975 persons x \$120 x 52 weeks = \$12,324,000

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Estimated increase in the section 23 War Pension rate, it is estimated that there are
135 persons x \$200.00 x 52 weeks = \$1,404,000

Estimated 1265 persons X \$1000 = \$1,265,000

Estimated 135 persons x \$2000 = \$70,000
Total ongoing costs for the year \$ 15,063,000

Estimated costs for tax refund \$15,000,000 to \$20,000,000:-- \$ 20,000,000

Estimated costs for extension of Trust Fund :-- \$ 43,000,000

Estimated costs of War widows/partners one off ex gratia payment:--
Estimated 700 War widows/partners x \$25,000 \$ 17,500,000

Estimated costs for Vietnam Veterans one off ex gratia payment :-- \$104,950,000
Total package costs including ongoing costs for 12 months \$203,513,000

The positives of this submission

It is a small price to pay to redress the 4 decades of Criminal Negligence and Failure of Duty of Care, which has affected 1000's of people in the Veteran Community

1/ The estimated costs are fair, reasonable and affordable.

This submission will greatly assist the Vietnam Veterans and their families to cope with their situation and to help all the Vietnam Veterans and give all their families some hope for the future and also prevent any further unnecessary deaths through the New Zealand Governments "*Negligence and Failure of Duty of Care*"

2/ I believe that this submission would also forestall any further claims and also resolve the outstanding Waitangi Claims and finally bring to a close, 4 decades of the New Zealand Governments "Misfeasance and Failure of Duty of Care"

3/ The New Zealand Government will prove to the world that it is a just and compassionate Government and has the integrity to successfully close this long outstanding issue. The World respect for the New Zealand Government would skyrocket and have a positive flow on effect for the New Zealand economy.

4/ All the breaches of International Protocol will remain buried as the price will have been paid. The issue will have been dealt with in an acceptable manner.

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5/ All the media can notify the public and the world that the New Zealand Government has the integrity to do the right thing and this measure will restore faith for the Military Personnel and help with the recruitment and retention of the Military.

6/ The flow on affect for the Civilian population of dioxin sufferers will gain huge support from the public and will put a closure on decades of Criminal Negligence and Failure of Duty of Care behind us. This action will save lives. The compensation package will go a long way in protecting the homes and the welfare of the Vietnam Veteran Community and save many lives.

The negatives of not accepting or negotiating this submission, which also includes no, answer at all.

Public exposure of the Criminal Negligence could conceivably cost the New Zealand Government personnel and the public purse billions of dollars in law suits for criminal negligence and damages. That is not taking into account the probable International repercussions should this be taken to the International Court at the Hague .I have not set out to deliberately or publicly embarrass and nor do I have the desire to do so to the NZ Government. The investigation in to a possible Class Action has been successfully completed by the legal team headed by the QC .This submission has been discussed with my committee and the Legal team. It is currently only being sent to Crown Law and all the current Members of Parliament for judgement and action. It is expected that common sense will prevail. The New Zealand Parliament has its first sitting of the year next Tuesday 10th February. I will be in Wellington on the Friday 13th February. I would to meet with Government representatives. I am prepared to meet and discuss the issues with legal counsel. You the Parliamentarians and representatives of your district have your honour and integrity at stake. I am also fully aware of the Crimes Act on sedition or seditious behaviour. I am simply asking you all to do the right thing and showing you how to do the right thing. Death Certificates of Vietnam Veterans are now showing Dioxin poisoning as one the causes of death. The weight of evidence clearly shows the New Zealand Governments“ Criminal Negligence and Failure of Duty of Care”.

There have been enough unnecessary and wrongful decisions made by Government to further waste taxpayer’s money justifying their Criminal Negligence

Quote from John Keys Speech Tribute 08 “I hope that this apology, and the acceptance finally that New Zealanders were exposed to Agent Orange in Vietnam, will go some way to making up for our previous failings”

Acceptance of this submission certainly help redress the wrongs of the past..

Yours Faithfully,
Bruce Weir Secretary/Founder VVAG