

May 24, 2014

Committee Secretariat,
Foreign Affairs, Defence and Trade Committee
Department of the Senate,
PO Box 6100,
Parliament House,
Canberra, ACT 2600

**Submission to the Committee's inquiry into the review
of allegations of sexual and other abuse in Defence, and the response
by Defence**

I am making this submission to the Senate's Foreign Affairs, Defence and Trade Committee which has had referred to it an inquiry into the processes established to manage and respond to allegations of abuse in Defence.

I note that the Committee "emphasizes that it is not in a position to resolve individual disputes or settle complaints about abuse in Defence". I am not going to ask the Committee to inquire into and make decisions about my experience of abuse, nevertheless, in speaking about the processes I speak out of my individual experience of abuse and of the processes set up to respond to those claims of abuse. Indeed, I can't do otherwise, since ironically, apart from occasional media reports, the processes set up prevent me from referring in detail to any other experience than my own. This conundrum goes to the heart of my submission.

The Committee speaks of "allegations" and of the story of my experience being "plausible". Perhaps that is a safe and legal way of talking but I find that language insulting; it diminishes my experience. That too goes to the heart of my submission. For me, what happened is no allegation – it happened, it was real. The Committee also uses the word "abuse". That word doesn't represent my experience. What I experienced was rape and that's the word I'll use, as unpleasant as that might be to some people. We are dealing here with the issue of what is knowledge and truth. DART can use that language I've referred to. I speak of the knowledge of the sensation of the hairs in my crutch stickily clinging to each other as I

walked naked across the grass, my clothes in my hand, to the washhouse where I could clean myself up. That knowledge remains with me and will remain with me until I die. That is my truth.

In October 2011 I made a statement to the DLA Piper review of allegations of sexual and other abuse in Defence. Included with my statement was a poem I had written about my experience in 1958 in Sydney University Regiment when I was completing National Service Training. That poem was referred to in Volume I of the Report from DLA Piper to the Minister.

In November 2012 DLA Piper advised me that the Government had set up a Taskforce (DART) and invited me to consent to the information I had provided being given to the Taskforce. I gave that consent.

In July 2013 DART contacted me to say that my matter was “plausible” and invited me to confirm by Statutory Declaration the information I had given to DLA Piper and to consent to my information being used by the Taskforce. I agreed with this request.

In August 2013 DART informed me about the four outcomes the Taskforce was offering: counselling, reparation, restorative engagement, and criminal investigation. I replied that I was interested in the reparation and restorative engagement responses, and applied for reparation.

In October 2013 DART advised me that I had been assessed as qualifying for an abuse reparation payment but not for a mismanagement reparation payment. In November 2013 I accepted the abuse payment offered and further submitted by way of Statutory Declaration that there had been mismanagement.

In January 2014 DART advised me of an increased reparation payment and a rejection of my claim of mismanagement. I accepted the increased abuse payment.

In January 2014 DART began negotiating with me about the Restorative Engagement Conference. The Conference took place in Sydney on February 27, 2014, with a senior officer in Defence, with my brother present and with a facilitator provided by DART.

I am now advised by DART (May 7, 2014) that my complaint with the Taskforce is now complete.

I don't have any issues about the ways in which DART personnel have related to me as an individual and to my experience of being raped and my claim of mismanagement. Their response has been respectful, and, as far as I can see, non-judgemental about me. However, from the outset with DLA Piper, I have said many times in statements and by phone that I've got involved in this review and the subsequent response because I wanted to at last break the silence with Defence about me being raped in 1958 and to see a change in an institutional culture which seemed to me to make it likely that the rape I experienced would happen. I wasn't looking for support. If I ever had needed support, that time has passed long ago. In November 2013, when I was re-submitting to DART that mismanagement had occurred, there was publicity about claims of young male sailors on HMAS Ballarat being raped. And I said in my re-submission and later in the Restorative Engagement Conference that 55 years after I was raped it's still happening. What has changed, I asked. At the time when I was raped and probably for some years afterwards I thought of my experience as just something that had happened to me. But over time I have come to see that I wasn't the first person to be raped by fellow-soldiers in the Army, nor was I the last.

At the Restorative Engagement Conference I was again told that Defence accepted that I had indeed been raped, as I had told it, and that that should never have happened. The very next day I saw on ABC news a report about a young sailor, Aaron Frazer, whose rape in 2007 had been acknowledged by DART and who was granted a reparation payment, and is now being refused assistance by Department of Veteran Affairs because of doubt that the rape happened. And I thought: "Yes. Have I just been given weasel words the day before? Just like Aaron Frazer? How much worth is there in the words of Defence saying they believe my story?" I see the denial/rejection experienced by Aaron Frazer as a denial of the truth of his experience and a denial of the culpability of Defence. Again, as in DART's communications with me, Defence was reported as saying Aaron's account of what happened is "plausible".

On ABC news on April 16 2014 there was a report that lawyers acting for trainee sailors abused at HMAS Leeuwin are asking for a Royal Commission.

I've been reflecting on my experience since approaching DLA Piper and what I've heard of abuse experience of other people in Defence. As I'm seeing it, the Response (the institutional response) has been to focus on the individuals who've told their stories and to offer some balm and quieten them down. So all my energy and input has been contained and

channeled into the four sets of responses determined by DART. It is as if I am one of a list of cases and one by one they are being methodically ticked off. Now I've been ticked off.

Although I had argued that the fact of me being raped was evidence of mismanagement within a culture of consent/permissibility within the institution, the fact that I didn't report the rape was taken as an absence of mismanagement. The response by DART (Jan. 6, 2014) was to say: "Regrettably, the additional information you provided in relation to mismanagement by Defence reaffirms my earlier assessment regarding your eligibility for a *Category 5 (Mismanagement by Defence)* payment. In making this decision, I have taken into account the circumstances surrounding your abuse, including that there was no information to suggest Defence would have been aware of the abuse such that it could take any management action in response." It's a bit like saying, you didn't tell us, so how could we have done anything. Effectively, that response blames me for not reporting what happened. DART's response ignores or, worse, denies that there existed an institution, a work environment which was hostile to talk of such happenings, which was averse to hearing any such reports. That's how I felt and it's now blindingly obvious that I wasn't alone in feeling that way. I reckon that probably a high proportion of initial complaints made to DLA Piper and referred to DART have come from people who did not report their experience. Doesn't this say to us something about the institution of Defence?

I submit that it is important for the Committee to put from its mind any notions that what they are witnessing are random acts of spontaneous lust, or cases of people being in the wrong place at the wrong time, or consensual sexual activities. These beliefs are excuses for planned acts of violence. Again, I speak of my experience. When I was seized and taken to the place where I was raped, I wasn't in the wrong place at the wrong time; I was going about my duties as I did every day. This wasn't a random act of violence; it was planned to happen at the time when I was alone, vulnerable, and a time when most other people were busy with having breakfast. It was planned and was planned to be secret – no witnesses – none other than myself and the rapists. It was intentional predation. I did not consent to what was done to me. I submit that what we are witnessing is an institution which conducts itself in such a way that these planned acts of violence take place within an environment which allows for secrecy and silence. I submit what we are faced with is an institution which has systematically insulated itself from knowing about the intentional sexual abuse which has happened and is happening. The silence, the failure to talk openly about what happens or might

happen fosters secrecy, putting it out of sight or hearing. Men do rape men, soldiers rape fellow-soldiers – that has to be said, not just in counselling, not just in the CO's office, not just in restorative engagement conferences, but out there in the public arena.

The DART processes have placed much emphasis on confidentiality. For instance, at the end of the Restorative Engagement Conference, I was asked to sign an agreement that I would not disclose what took place in that Conference. Perhaps there are times for confidentiality. My sense is that what has happened is that I have become confined and isolated. My sense is that the practices of secrecy and silence are being reinforced. I have nothing to hide. Does DART? Does Defence?

I don't talk much about what happened to me because the response too often is silence. People don't want to hear, they don't know where to look. They would rather that it all, including me, just went away or disappeared, as if it had never happened or could have happened. I am an embarrassment. The message is: better I should shut my mouth. Better that there should be silence. And the other thing is the *stigma*. In our society the social rejection stemming from rape or other forms of sexual abuse falls on the person who has been raped or abused. The person is, as it were, attainted – as if their rights as a person have been extinguished. Or, as I see it, as if I have been robbed of my rights by the act of being raped. And that is the way rape and other forms of sexual abuse are used – to take away the social and human rights of a person. Defence shares with the wider society this response to rape. What I'm arguing, and have tried to argue, is that Defence needs to ask itself what is going on in Defence that acts to silence persons from reporting being raped, or sexually abused in other ways, rather than blaming the raped person for remaining silent. Yes, I stayed silent at the time. I don't excuse my silence. What I am arguing is that the institution of which I was a member, and the wider society, were seen by me as compelling me to choose the path of silence. My freedom to speak was being suffocated.

I had offered in The Restorative Engagement Conference to contribute to training/education within Defence to change the culture. I was assured Defence is working hard to change the culture. I don't disbelieve this statement, I want to believe it, but, as I'm beginning to now see it, whatever is happening is now hidden again, within Defence. Silence has been re-imposed.

Restorative Engagement hasn't changed/restored what happened and can't change/restore what's happened. That's an illusion. I haven't

bought into that illusion. Nothing makes up for what has been broken. I tell you what – something in me died that day or was killed, and it hasn't come back, nor will it ever come back as it was then. My life, the lives of others abused, aren't going to be restored. The main good thing, I was thinking, is that my story has been truly listened to and seems to have been believed. Now, having read about the experience of Aaron Frazer (above), I wonder just how fair dinkum is the statement that my story is believed. If it is to be fair dinkum there's got to be more than individual solace. That listening has to come out of the confessional/clinical reporting process, the Restorative Engagement Conference, into which it's been channeled and into the wider culture which, by its silence and non-listening, supports the institutional culture of Defence which permits these abuses.

There has to be more than treating the hurt of the injured individuals – which is akin to keeping everything within the confessional or within the treatment room or within the family, which is the way the DART casework approach has been shaped. I'm not a case – it's bigger than me or any other individuals. The listening within the confessional, no matter how respectful and attentive it's been, has to come out into the wider culture with which the institutional culture of Defence meshes and which, by its present silence and non-listening supports the institutional culture. Both work together to permit these acts of abuse.

The institutional culture of Defence meshes with the wider culture in the tacit approval given to a form of masculinity (which I will call "patriarchal masculinity") which gives rise to poofter-bashing, vilification by language of any other sexuality/gender, sexual humiliation of people of other genders/sexualities by rape or other sexual abuses, even killings of people of other sexualities/genders. If Defence thinks it needs a culture such as this, if it thinks it must have personnel who live by the codes of this form of masculinity, then the institutional culture will not change and will remain a support for the perpetuation of that form of masculinity in the wider culture. This form of masculinity is a nexus between the culture of Defence and the wider culture. The conversation which needs to be opened up is around: "What does it mean to be a man?" and "What does it mean to be a warrior?" I know lots of brave warriors of various sexualities/genders who don't live by that narrow version of masculinity which permits the abuses experienced by people in Defence.

I challenge the Committee to understand Defence's responsibility for an institutional culture which permits, maintains and maybe even rewards silence around rape and other sexual abuses within Defence. I challenge

the Committee to understand how stigma works as a tool of silencing and of removal of freedoms, especially the freedom to speak. I challenge the Committee to break open the culture of silence. I don't need pity. I have never needed pity. What I need is to see emerge a culture which permits, even celebrates, my right and the rights of others to speak of what we have experienced. I need an end to silence. If the Committee does not understand these things, then it understands very little.

I need for there to be a process which enables me, as a person who has experienced sexual abuse within Defence, to make common cause with others who have experienced like abuse.

Maybe the process needs to be widened to provide for something like a Royal Commission so that the secrecy and silence are blown away and Defence is held publicly accountable for how it must change.

Yours sincerely,

Neil Lewis Stuart