

## Australian Federal Police Submission

### **Inquiry into the accessibility and adequacy of processes to support victims of abuse in Defence**

1. The Australian Federal Police (AFP) welcomes the opportunity to make a submission to the Foreign Affairs, Defence and Trade References Committee's inquiry into the accessibility and adequacy of processes to support victims of abuse in Defence.
2. Noting that the terms of reference predominantly focus on the Defence Abuse Response Taskforce (DART), this submission will outline the role of the AFP in the DART and the AFP's investigative role into allegations of sexual and other forms of abuse in Defence.

#### *The Defence Abuse Response Taskforce*

3. The DART was established as part of the Commonwealth Government's response to a number of reviews into culture and allegations of abuse within the Australian Defence Force. The role of the DART is to assess individual allegations made to the law firm DLA Piper, and any additional allegations made to the Taskforce concerning abuse suffered by Defence personnel before 11 April 2011.<sup>1</sup> The DART works in close consultation with complainants to determine the most appropriate outcome for the individual.<sup>2</sup> Once claims of abuse are assessed by the Taskforce as *plausible and in scope*, claimants will be offered a number of options as deemed appropriate including: referral to police for assessment; referral to Defence for consideration of administrative or military justice outcomes; restorative engagement; reparation payment and/or counselling.<sup>3</sup>
4. The DART's Taskforce Crime Group was established to assess matters where a criminal offence is alleged to have been committed. The Taskforce Crime Group is comprised of a team of experienced investigators. The AFP has dedicated four investigators from Australian Capital Territory (ACT) Policing and one intelligence officer from AFP National. A further AFP member will commence with DART in June 2014.
5. If a preliminary view is formed that the complaint relates to criminal conduct and consent is received from the complainant, the matter will be referred to the Taskforce Crime Group to assess whether the matter can be referred to a Commonwealth, State or Territory police agency for assessment and possible criminal investigation. It is noted that matters are then referred to police with the consent of the complainant.

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<sup>1</sup> DART website

<sup>2</sup> DART website

<sup>3</sup> DART 5<sup>th</sup> Interim Report

6. When assessing a matter, the Taskforce Crime Group will establish whether:
  - a criminal offence is likely to have been committed against an Australian law that was in effect at the time the incident occurred;
  - the criminal offence was committed within Australia or within Australia's territorial boundaries or it is an offence with extraterritorial application; and
  - there are no statutory bars or limitations to commencing a prosecution.
7. The Taskforce Crime Group also examines matters that may be subject to administrative and/or disciplinary action through the military justice system and may refer appropriate matters to the Defence Force for their consideration.
8. If a matter is referred to a Commonwealth, State or Territory police agency for assessment and possible criminal investigation, it will be referred under the agreed '*National Protocol for the Dissemination of Information to Commonwealth, State and Territory Police from the Defence Abuse Response Taskforce*'.<sup>4</sup> The AFP is a signatory to this Protocol, with the most recent iteration adopted by AFP ACT Policing on 14 October 2013 and by AFP (National) on 11 December 2013.
9. The types of matters that are referred to police agencies vary considerably and include: unlawful and indecent assault; threat to kill, threat to inflict grievous bodily harm, stalking and intimidation with intent to cause fear; common assault, assault occasioning actual bodily harm; acts of gross indecency on a male; rape; burglary with intent to assault; and use of a carriage service to menace, harass or cause offence.<sup>5</sup>
10. As at 3 March 2014, the Taskforce Crime Group had referred 39 matters to State and Territory Police with 5 of these matters being referred to AFP ACT Policing.<sup>6</sup>

#### *The AFP's Role*

11. The DART Chair, the Honourable Leonard Roberts-Smith RFD, QC is assisted in his role by three other Leadership Group members, namely, Deputy Chair Mr Robert Cornall AO, Member Consultant Ms Susan Halliday and Ex-Officio Member AFP Assistant Commissioner Rudi Lammers APM.
12. Assistant Commissioner Lammers provides advice and overall guidance and direction to the Chair on matters that involve police agencies and processes and the application of criminal law in a law enforcement environment. He has also established liaison networks with other State and Territory police agencies and provided close guidance on the development of the Taskforce Crime Group's processes and protocols.

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<sup>4</sup> DART 4<sup>th</sup> Interim Report

<sup>5</sup> DART 5<sup>th</sup> Interim Report

<sup>6</sup> DART 5<sup>th</sup> Interim Report

*AFP Investigations*

13. As outlined in the DART Fifth Interim Report to the Attorney-General and Minister for Defence, dated March 2014, a referral to a police agency does not mean a matter will be investigated or prosecuted. Police agencies assess complaints received in accordance with their individual jurisdictional policies and procedures. As such, any decision to conduct further investigations will be determined by the relevant police jurisdiction and any decision to proceed with a prosecution will be made by the relevant jurisdiction's prosecutions agency.
14. The AFP understands that the Taskforce Crime Group will maintain contact with the relevant policing agency to track the progress of each matter it has referred.
15. To date, based on the DART Fifth Interim Report, the matters referred to police agencies are progressing under the relevant state's jurisdiction and no matters have been received by the AFP that have necessitated AFP (National) assessment.
16. The AFP (National) has responsibility for policing some External Territories (including Christmas Island, Norfolk Island, Cocos & Keeling Islands) and responsibility for investigations under the Crimes at Sea Act 2000. As such, any relevant matters occurring in the External Territories or covered by the Crimes at Sea Act 2000 referred by the Taskforce Crime Group would be considered by AFP (National). The AFP (National) may also consider referrals where conduct reveals possible Commonwealth offences, and would also have jurisdiction to investigate conduct occurring overseas, where such conduct constitutes an offence under the Criminal Code 1995 (or other Commonwealth legislation) to which extended geographical jurisdiction applies.
17. ACT Policing is a function of the AFP which provides policing services to the ACT under the auspices of a Policing Arrangement between the Commonwealth and ACT Governments. Matters referred to AFP ACT Policing will be assessed in accordance with standard AFP ACT Policing practices and protocols.
18. In the situation of referrals from the Taskforce Crime Group to AFP ACT Policing, the matter in the first instance will be referred to the Sexual Assault and Child Abuse Team (SACAT). The SACAT will assess the matter and, if appropriate, decide which AFP ACT Policing team is the most appropriate to undertake a criminal investigation. Matters relating to general assault offences will be referred to an AFP ACT Policing Crime Team. Matters involving assault with a sexual element will be investigated by the SACAT.

19. In the case of an assault matter (with no sexual element) the victim will be offered support through the Supportlink referral framework. The role of Supportlink is to:
  - establish and support formal referral partnerships with government and non-government agencies for police to refer to;
  - provide a single referral and diversion gateway for operational police; and
  - monitor and support the referral process for clients, agencies and police officers.
20. Referrals into the Supportlink framework are made via a single referral gateway embedded within the policing system, which gives local, state and nationally based support agencies the ability to proactively target vulnerable clients in a seamless manner, to ensure the requisite support is provided to victims. Police can also refer across states, as Supportlink is a national framework.
21. There are several levels of support for victims of sexual offences. AFP ACT Policing has a Memorandum of Understanding with the Canberra Rape Crisis Service/Service Assisting Male Survivors of Sexual Assault (CRCC/SAMSA) whereby upon receipt of a complaint of a sexual assault, CRCC/SAMSSA will be contacted. Appropriate members of CRCC/SAMSSA may then provide support for the victim through the reporting process. This may include being present with the victim while they provide their statement, through to an interview or completion of a written statement. The CRCC/SAMSSA worker may also be present during a forensic medical examination or any other follow up interviews at the request of the victim.
22. In 2003/2004 the ACT Government funded an initiative for AFP ACT Policing and the ACT Director of Public Prosecutions (DPP) to conduct an investigation into ways of improving responses of the Justice System in supporting victims. The final report of this investigation, 'Responding to Sexual Assault: the challenge of change' (2005) was launched by the Chief Minister in 2005. In 2007 a Reference Group, The Sexual Assault Reform Program (SARP) was convened to implement the recommendations of this report. There were six key priority areas to progress this reform, including victim support. The 'Wraparound Program' was then created to assist AFP ACT Policing to offer victims of sexual offences (including; Indecent Acts and Indecent Exposures) access to a range of support services. AFP ACT Policing's responsibility under 'Wraparound' is to ensure that every victim of a sexual offence (including indecent acts/exposure) is given equal opportunity to be referred to appropriate support agencies.

23. Once a month a 'Wraparound' meeting is held between ACT Policing, as Chair, CRCC/SAMSA, Victim Support ACT, the ACT DPP, Care and Protection Services, Forensic and Medical Sexual Assault Care, and the Child at Risk Health Unit. The purpose of these meetings is to determine which agency is the most appropriate to provide individualised support to identified victims. This ensures tailored support is provided to each individual victim to suit their needs. The most appropriate agency will then take on the responsibility for the victim and will assist them as required, including throughout the entire criminal justice process.
24. AFP ACT Policing also has Victim Liaison Officers (VLO) whose role is to support members in meeting their obligations towards the responsible treatment of victims and to help victims navigate their path through the criminal justice system. The VLO provides supplementary services to victims of crime which include acting as a link with the investigating officer, providing information about victims' support services, referring to victims' support services and the DPP Witness Assistant Scheme. The VLO is not responsible for advising the victim of court outcomes.