

Committee Secretary  
Senate Foreign Affairs, Defence and Trade References Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600

**Inquiry into DLA Piper's report of the review of allegations of sexual and other abuse in Defence, and the government's response to the report**

I have been asked to make a written submission to the committee and do so but with certain qualifications.

I have not seen any of the allegations obtained by DLA Piper and it is somewhat difficult therefore to address comprehensively the committee's terms of reference. In all likelihood the allegations will include a number of matters that were appropriately dealt with by either a Service tribunal or managed within Defence and the complainant is simply disgruntled with the outcome.

Equally, there will be other matters that were not reported by the complainant and consequently did not come to the attention of the relevant authority. In my respectful submission there is little that can be done with respect to such matters other than to encourage members to report them and to continue to assure complainants that there are no penalties for doing so.

I currently hold the statutory position of Director of Military Prosecutions (DMP) and have done so since 10 July 2006. My appointment and duties are the military equivalent of a civilian Director of Public Prosecutions and I perform my duties within a court system that mirrors that of civilian tribunals. My comments are based upon my experiences as the DMP and my considerable Service experience as an ADF legal officer.

In my opinion there are currently sufficient mechanisms in Defence to provide support to victims of sexual and other abuse. There are Defence Instructions dealing with the management and reporting of both sexual offences and unacceptable behaviour. Further, each member of the ADF is required to undergo annual mandatory training with an emphasis on what constitutes unacceptable behaviour and the complaint mechanisms for dealing with instances of it. Similarly, Defence has established an extensive equity and diversity network and a complaints hotline. Consequently, I see little value in establishing a victims advocacy service. It has been my experience that both the complainant and indeed the accused are well supported by unit members and chaplains throughout the trial process.

The real issue as I see it is the need to clearly define the jurisdiction of the ADFIS in relation to investigations. At present there is a dual approach with some matters investigated by the ADFIS and others by the civilian police. If it is intended that the ADFIS will continue to investigate Service offences and thereby retain its capability to do so procedures need to be simplified so that complainants aren't confused as to where to lodge their complaints. Investigations by civilian police invariably result in prosecutions by civilian prosecuting authorities. Clearly such an outcome defeats the accepted objective of enforcing and maintaining Service discipline.

However, if it is intended to continue with the dual approach consideration should also be given to civilianizing the entire investigative and prosecution processes for other than the so called barrack room types of offences.

I would be happy to appear before the committee if required to do so.

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Brigadier  
Director of Military Prosecutions

22 November 2012