

## **The Submissions**

### **Introduction**

- 5.1 The committee inquiry has received a total of fifty submissions relating to the conduct of military justice and the alleged events at 3 RAR. The submissions ranged from specific detail related to the events at 3 RAR to allegations of brutality, harassment and corruption elsewhere in the Defence Force, to suggestions and comments to the committee from concerned citizens.
- 5.2 It should be noted that at no stage did the committee intend to address each specific case submitted. Individuals who submitted evidence were specifically advised that the inquiry did not have the power to address each specific case, but that their submission would be used to address problems with particular processes or procedures within Defence. It is both outside the scope of the committee terms of reference and not within committee capability to investigate and adjudicate on complicated issues. In many of these cases, legal or administrative action is currently underway, with potential for some measure of closure.
- 5.3 As a direct result of the incidents at 3 RAR and the subsequent committee inquiry, the CDF directed that an audit into justice procedures within Defence take place. Mr James Burchett QC was appointed to lead this audit, as previously explained. As the committee does not have the capability to investigate specific submissions, it decided, in line with other

inquiries,<sup>1</sup> to forward submissions to Mr Burchett so that the Military Justice Audit would have access to all information available. Individuals who submitted evidence were asked their permission for the committee to pass their submissions to Mr Burchett QC.

- 5.4 A sample of this size does not allow any significant study to be conducted or firm judgements pronounced. What may be deduced from the submissions however, is whether they indicate any problems or concerns in some part of Defence processes and procedures. By studying details such as the number, location, rank and sex of complainant, and their service a pattern or patterns may become apparent. This chapter looks at the submissions in this manner and focuses on the issues of gender, service unit, type of grievance, timeframe in which the grievance occurred and the rank of the person alleging the grievance.
- 5.5 There were a total of fifty submissions. Twelve were responses from the Department of Defence to questions on notice put by the committee to Defence witnesses. An additional five were submissions that offered support and comment only and did not address specific grievances or points of detailed concern. Of the remaining submissions four were supplementary submissions from individuals that merely added further detail to a previous submission. The remaining submissions totalled twenty-nine, addressed a variety of issues and were studied in the following categories.<sup>2</sup>

## Gender

- 5.6 Of the twenty-nine submissions, twenty-four were related to males and five related to females. Of the five submissions regarding females three alleged sexual harassment and abuse of power and the remaining two addressed matters that were not gender related.
- 5.7 Given the publicity surrounding the inquiry the committee was surprised with the limited number of submissions reflecting allegations of sexual harassment. While the inquiry was not targeted at sexual harassment the

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1 In other inquiries such as 'A Pocket Full of Change: Banking and Deregulation, Standing Committee on Finance and Public Administration, 1991, submissions from individuals were passed, with their permission, to suitable authorities for action.

2 Submissions came from individuals who had specific complaints or grievances, or from relatives and friend of such persons. When identifying the categories such as service and gender of those people, information relating to the individual with the alleged complaint was used rather than the person submitting the submission – eg: if a mother complained about her son's treatment the information detailed in this chapter relates to the son, not the mother.

committee expected individuals with complaints of this nature would make submissions.

## Service

5.8 When studying the service background of the people making the submissions, it was found that twenty-one were related to Army, four related to Navy and four related to the Air Force. One of the Army submissions was jointly submitted with a Defence civilian. Only one of the submissions was from a member of the Reserve forces. Table 5.1 details the relative numbers of submissions from each service.

Table 5.1 Number of Submissions from each service

	Navy	Army	Air Force
Number of permanent forces <sup>3</sup>	12,877	24,089	14,051
Number of submissions	4	21	4
Number of submissions per 1000 personnel <sup>4</sup>	0.31	0.87	0.29

5.9 Even when taking the relative size of the services into consideration this indicates a far greater proportion of submissions from Army than from the Navy and Air Force. This may be indicative of a greater problem with violence and brutality within Army, or may merely reflect the fact that the media attention and investigation primarily revolved around Army. While of concern, no useful conclusion can be derived from this information.

## Units

5.10 This criterion identified the specific unit the submissions related to.<sup>5</sup> Key points are that:

- Three submissions only were from members of 3 RAR. Two of these related to current events under investigation.

3 Defence Annual Report 1999-2000, p 54.

4 The small sample size leads to a significant scope for error in these statistics.

5 Some submissions ranged over a number of units and areas of Defence or did not specifically detail the unit involved.

- Almost all of the Army submissions that could have a unit or Corps identified (13 out of 16) related to Arms Corps units.
- Two submissions related to service on board Royal Australian Navy vessels.
- Nine submissions related to events that allegedly occurred in training establishments, such as ADFA and the 1<sup>st</sup> Recruit Training Battalion (1 RTB).

5.11 The fact that only three submissions have been received from 3 RAR despite the intense media and Defence scrutiny is worth noting. If, as alleged, brutality within the unit was widespread, it would be expected that a greater number of complainants would have come forward. This result suggests that events in 3 RAR may not be widespread.

5.12 The fact that training organisations such as Australian Defence Force Academy and 1 RTB are the subject of a number of submissions is of concern to the committee. While it is noted that these organisations are designed to train recruits into a disciplined military system, and are the entry point for most individuals to the services, any allegations of violence or bastardisation are of concern. Defence must continue to monitor the conduct of initial training closely to ensure it is both legal and conforms to community expectations.

## Type of Grievance

5.13 Table 5.2 below places the submissions into broad categories of grievance.

Table 5.2 Type of Grievance/Concern in Submission

Type of Grievance/Concern in Submissions	Number of Submissions <sup>6</sup>
Bastardisation/Assault/Harassment (non-sexual)	15
Sexual Harassment	3
Unjust DFDA proceedings	2
Corrupt decision making by senior officers	3
Slow and/or ineffective Redress of Grievance	6
Unfair medical discharge	4

6 Note that one submission can cover more than one grievance.

- 5.14 The numbers would indicate that:
- Of all alleged offences, assault and bastardisation are the most prevalent in the Australian Defence Force
  - There is some indication that the redress of Grievance System is not working as it should. The aggrieved primarily argued that the system worked too slowly, and that the individual had his/her career put on hold while the long process unfolded.<sup>7</sup>
- 5.15 The committee is concerned about the level of complaint with the ROG system, particularly in light of the Auditor General's audit report into the system in 1999.<sup>8</sup> The committee understands that there has been a subsequent review conducted by the Defence Complaints Resolution Agency and the Defence Ombudsman's Office in 2000, and is keen to see concrete and positive changes to the system flow from this review.

## Timeframe of Grievance

- 5.16 Table 5.3 below details the timeframe of the grievances.

Table 5.3 Timeframe of Grievances

	Before 1980	1980- 1985	1986- 1990	1991- 1995	1996- 1999	2000- 2001
Number of submissions	4	2	3	6	12	2

- 5.17 Approximately fifty percent of the grievances occurred in the last five years, with the remainder occurring from six to twenty years ago. A number of the older grievances comment about processes and issues that have subsequently changed or been redressed. The submissions relating to events in the last five years discuss issues of illegal activity or current practice.

7 In one case up to four years.

8 Auditor-General's Report Number 46 of 1998-99 entitled Performance Audit – Redress of grievances in the Australian Defence Force, tabled on 10 June 1999.

## Rank of Personnel Alleging Grievance

5.18 The ranks of the personnel submitting grievances are detailed in Table 5.3 below.

Table 5.3 Detail of Rank level of persons submitting grievances

Rank of Person Alleging Grievance (or service equivalent)	Major	Captain/Lieutenant	Warrant Officer/Staff Sergeant	Corporal	Private	Cadet/Recruit
Number of submissions	2	4	1	3	15	2

5.19 The statistics seem to confirm the obvious fact that abuse and brutality are more likely to be inflicted on lower ranking members of any organisation, in this case private soldiers or recruits, and less likely to occur as individuals move higher in rank. This further confirms the absolute necessity for individuals to have avenues of notification and support outside of the unit and command chain. This is vital to ensure that organisationally powerless individuals can raise complaints without having to gain the approval of their superiors, who in many instances may be part of the complaint.

## Conclusion

5.20 Even given the understanding that the number of complaints brought to the committee do not represent the whole, twenty-nine complaints covering a period from pre-1980 to 2000 do not constitute a large scale break down of military discipline in the ADF. It would not appear to represent a culture of violence in the ADF.

5.21 The nature and detail of some of the grievances raised however, concern the committee. Some of the individual allegations are shocking and have caused deep and lasting physical and emotional damage to the individuals concerned. Many of these cases have as their central core a breakdown in management processes or individual failings on behalf of responsible officers.