

Chapter 3

Conclusion

Committee view

3.1 At the outset of the inquiry, the committee had reservations about the terms of reference and the allegations made, which if examined in a public inquiry would have the potential to further harm individuals caught up in the Jedi Council affair. A number of submissions received by the committee referred to documents described as the NSW Police Strike Force CIVET report or the post-operational assessment. Some submissions referred to different versions of the document or to documents with different dates. It was suggested the report was an internal working document reflecting only the views and opinions of the police officer at Kings Cross Police Station who wrote it.

3.2 Importantly, the committee was unable to establish the status of the 'confidential' CIVET report as NSW Police did not provide it, or any other relevant contextual information, to the committee as requested by the initial tabling date. Further, it took NSW Police until 11 May to formally advise the committee that it would not provide it with a copy of the CIVET report.

3.3 The committee is surprised by the content of the letter from NSW Police and the lengths taken by General Counsel to draw the committee's (and the Clerk of the Senate's) attention to aspects of Senate practice and procedure as a basis for refusing to comply with the committee's request to access the CIVET report. At no time did the committee consider ordering the production of the CIVET report, and no such order was ever made. The committee is fully aware of its powers and the possible limitation on its ability to exercise them. It would have been entirely appropriate for NSW Police to cooperate with the committee and assist its inquiry by making relevant documents available. That it did not is entirely a matter for NSW Police. Speculation on the committee's power to compel the production of documents is irrelevant.

3.4 While a draft CIVET report was made available to the committee by Senator Lambie via an anonymous third party, the document was redacted, unsigned and variously dated. The committee is unable to rely on this document to make findings.

3.5 Collectively, these factors made it difficult for the committee to proceed with the inquiry as it was unable to assess the evidence raised in submissions and establish the provenance of versions of the CIVET report referred to in evidence.

3.6 The evidence the committee received was conflicting and incomplete with the potential to further harm the reputation and wellbeing of individuals. The committee would not normally inquire into unsubstantiated allegations arising from internal police investigations and Defence reviews, unless they pointed to systemic failure or a pattern of institutional behaviour warranting further scrutiny. Based on the evidence, the committee was unable to establish whether these issues were factors arising from Defence's handling of the Jedi Council affair. In the absence of evidence to

substantiate the allegations, the committee agreed it was not in a position to undertake further scrutiny of this matter.

3.7 In light of the evidence received from Defence and the IGADF, the committee decided it would not investigate Defence's handling of the CIVET matter or its investigation of ADF personnel. The IGADF and Defence submissions rejected outright the allegations raised in evidence. The committee is satisfied that the IGADF followed due process in its investigations, noting that the second IGADF inquiry made findings of serious shortcomings with ADFIS investigative practices and procedures. In light of this, the IGADF recommended a series of measures to address and enhance the ADF's understanding and investigation of cybercrime and ICT misuse.

Conclusion

3.8 The terms of reference raise a question mark around the value of conducting a Senate committee inquiry into a complicated matter based on allegations which are unable to be substantiated. This committee makes it clear that it does not shy away from undertaking inquiries into difficult subject matter and tabling reports with practical and unanimous recommendations. Since 2012 the committee has completed inquiries into allegations of sexual and other abuse in Defence, the Government response to the Defence Abuse Response Taskforce, the mental health of ADF serving personnel and the operation of Defence's resistance to interrogation training. The committee is currently inquiring into the issue of suicide by veterans and ex-service personnel which has generated over 400 submissions and evidence from five public hearings held across the country.

3.9 Each of these inquiries included information on the committee's website emphasising that the committee could not address individual circumstances or resolve claims of rehabilitation or compensation for veterans and ex-service personnel. To attempt to do so would exceed the committee's remit. However, the committee's findings and recommendations have been informed by individual circumstances presented in evidence, which have highlighted administrative failure and suggested where improvement is required. Committee recommendations with cross-party support have improved public administration and contributed to legislative reform in the Defence and Veterans' Affairs portfolio. Most of the evidence received was able to be published by the committee.

3.10 The CIVET inquiry presented the committee with a different set of challenges. It surfaced from the plight of individuals whose military service was terminated by Defence for their alleged involvement in the Jedi Council, including the receipt and circulation of offensive material via Defence's email system. Most of the evidence received by the committee remained in camera due to its sensitive nature, often at the request of submitters. In making these observations, the committee in no way seeks to down play the serious personal and professional consequences which continue for individuals caught up in this matter. Defence has acknowledged that the consequences are 'life-threatening' for some.

3.11 However, consistent with past practice and focusing on achieving realistic outcomes, the committee agreed that it was unable to investigate individual cases and

the serious allegations made into Defence's conduct which could not be substantiated by the evidence.

Senator Alex Gallacher
Chair

