

Senate Foreign Affairs, Defence and Trade Legislation Committee

Answers to written questions on notice  
DEPARTMENT OF DEFENCE

Additional estimates 2001—2002; 20–21 February 2002

**Investigations and Inquiries into Claims of Unacceptable Behaviour  
involving Arunta Sailors on Christmas Island in December 2001  
QUESTION W35**

- a) Who did the Commanding Officer inform about the alleged misconduct, beyond Arunta crew, and when?
- b) Is the indecent behaviour that one of the Arunta sailors charged with being treated as an offence under the Defence Force Discipline Act? If not, how has it been classified?
- c) Please confirm that Admiral Shackleton advised Senator Hill that the inquiry he ordered under the Defence (Inquiry) Regulations should not be made public, until disciplinary action has been taken under the Defence Force Disciplinary Act.
- d) Please advise whether there was initially any allegation of sexual assault made by a female Arunta sailor. If yes, did this allegation change at all, and at what stage of the investigation(s) did it change?

**RESPONSE**

- a) The Commanding Officer of HMAS *Arunta* advised Maritime Headquarters by signal on 4 December 2001 and had a brief discussion about the matter with Commodore Hancock (Chief of Staff at Maritime Headquarters) and Captain Thompson (Chief Staff Officer Operations) on that day.
- b) No sailor was charged under the Defence Force Discipline Act. The matter was investigated at the time in order to determine whether charges might be brought under the Act. However, none was brought due to a number of factors, including the decision by the complainant that she was unwilling to give evidence in the context of a Defence Force Discipline Act prosecution. The matter was dealt with administratively, and the person principally involved was issued with an administrative 'caution', in accordance with Defence Instruction (General) *Discrimination, Harrassment, Sexual Offences, Fraternalisation and Other Unacceptable Behaviour in the Australian Defence Force*, which is recorded on the person's personal file.
- c) After the administrative disciplinary investigation was undertaken, Vice Admiral Shackleton considered the inquiry report conducted under the Defence (Inquiry) Regulations into whether or not charges should be laid under the Defence Force Discipline Act, and determined that a further disciplinary investigation, under the Act, was warranted. He advised the Minister that the inquiry report should not be made public until the disciplinary investigation was completed.
- d) The female sailor reported what had happened from her recollection and, on subsequent reflection, indicated that she was unwilling to give evidence in the context of a Defence Force Discipline Act prosecution. Rather, she required an apology from, and counselling for, those allegedly responsible. The evidence suggested the possibility of an act of indecency rather than sexual assault. The Chief of Navy subsequently directed Maritime Command to undertake a further disciplinary investigation into aspects of the matter, which is continuing.