



DEPARTMENT OF DEFENCE

OFFICE OF THE SECRETARY

CANBERRA, A.C.T. 2600
TELEPHONE 265 2851

SEC 0229/02

Ms Jane Halton PSM
Secretary
Department of Health and Ageing
GPO Box 9848
CANBERRA ACT 2601

Dear Jane

During your appearance at the Senate Select Committee hearing, you mused about why I or other people in Defence you know well did not pick up the phone and tell you "You just need to know that this [the children overboard allegations] looks a bit dodgy" or "We are a bit concerned" (pages 1036-37 of the 16 April 2002 Hansard). Unfortunately, your testimony could be interpreted as going very much to the bona fides of Defence, its command structure and the values we promote within our organisation.

From my point of view, the nub of the matter is that until 24 February 2002 the Chief of the Defence Force continued to believe the original report that children had been thrown overboard and so advised the Minister for Defence. As you are probably now aware, Admiral Barrie also spoke to the Minister for Defence in October 2001 about the doubts that had been raised.

I continue to be surprised by the lack of understanding of the diarchy. You may recall my discussion about this with Senator Faulkner during the hearings. In essence, the Minister for Defence's Ministerial Directive to CDF and me makes it absolutely clear that my actions must not be inconsistent with "the CDF's role as principal military adviser and his statutory responsibilities and authority as commander of the Defence Force under the *Defence Act 1903*".


As principal Military Adviser and Commander of the Australian Defence Force, CDF is (and was) ultimately responsible for directing Defence's involvement (as part of Operation Relex) in implementing the Government's border protection policies and for reporting to the Minister and Government on that involvement.

Any suggestion that I should have called you last year and said that the considered view the CDF had taken and held to on the children overboard matter was "dodgy" is curious at best. Indeed, it would have been quite wrong of me to undermine the CDF's position and role in this way.

Certainly Air Marshal Houston told the Minister for Defence early in November (in response to Minister Reith's request) that in his (Houston's) opinion there was no evidence to support the view that children had been thrown overboard. At that time he was the Acting CDF and he had a clear responsibility to do what he did.

In the circumstances, I have felt obliged to copy this letter to Mr Moore-Wilton.

Yours sincerely

A handwritten signature in cursive script, appearing to read "Allan Hawke".

ALLAN HAWKE
Secretary

26 April 2002