

Appendix 2

Additional information, tabled documents, and answers to questions on notice

Additional information

- "A Study into Judicial System under the Defence Force Discipline Act" by Brigadier the Hon A.R. Abadee, RFD Deputy Judge Advocate General, 1997
- "Own motion investigation into how the Australian Defence Force responds to allegations of serious incidents and offences – Review of Practices and Procedures" Report of the Commonwealth Defence Force Ombudsman, *January 1998*
- Report of the BOI into HMAS Westralia, *August 1998*
- "Inquiry into Military Justice in the Australian Defence Force" Report by Mr J.C.S. Burchett QC, an investigating officer appointed by the CDF under Defence (Inquiry) Regulations 1985, *July 2001*
- "The Defence Legal Service Board of Inquiry Management Audit" Report by Acumen Alliance, *October 2003*
- Coroner's Report into HMAS Westralia, *December 2003*
- Executive summary of Investigating Officer's Report into the Death of PTE Jeremy Williams (modified for public release), 2003
- Australian Defence Force: Appendices to ADF submission P16, *19 February 2004*, in 3 volumes.
Annex F appendix 1:
 1. ADF Publication 06.1.3: The Guide to Administrative Decision Making
 2. ADF Publication 06.1.4 : Administrative Inquiries Manual
 3. Defence Instruction (General) Personnel 34-1: Redress of Grievance – tri-service procedures
 4. Defence Instruction (General) Personnel 35-6: Formal warning and censures in the ADF
 5. Defence Instruction (General) Personnel 45-1: Jurisdiction under the Defence Force Discipline Act – guidance for military commanders
 6. Defence Instruction (General) Administration 45-2: Reporting and investigation of alleged offences within the Australian Defence Organisation
 7. Defence Instruction (General) Personnel 45-4: ADF prosecution policy
 8. Defence Instruction (General) Personnel 45-6: Director of Military Prosecutions – interim implementation arrangements
 9. Defence Instruction (General) Administration 61-1: Inspector General of the ADF – role, function and responsibilities

Annex F appendix 2:

A. Illegal drugs and testing policies

1. Defence Act 1903 Part VIII: Urinalysis testing of members of the Defence Force who undertake combat-related duties
2. Defence Instruction (General) Personnel 15-2: Involvement by members of the ADF with illegal drugs
3. Defence Instruction (Navy) Personnel 13-1: Illegal use of drugs and drug education in the Royal Australian Navy

4. Defence Instruction (Army) Personnel 66-5: Army's random and targeted urinalysis drug testing program
5. Defence Instruction (Air Force) Personnel 4-26: Illicit drug testing in the Air Force

B. Alcohol abuse and testing policies

6. Defence Instruction (General) Personnel 15-1: Misuse of alcohol in the Defence Force
7. Defence Instruction (Navy) Personnel 31-9: Management of alcohol and the prevention and management of alcohol abuse in the Royal Australian Navy
8. Defence Instruction (Army) Personnel 66-1: Alcohol use and the management of alcohol misuse in the Army
9. Chief of Air Force Directive 04/03: Implementation of the Air Force interim random and targeted urinalysis testing program
10. Defence Instruction (General) Personnel 15-4: Alcohol testing in the ADF
11. Defence Instruction (Navy) Personnel 31-51: Alcohol testing in the Royal Australian Navy
12. Defence Instruction (Air Force) Personnel 4-25: Alcohol testing in Air Force
13. ADF Mental Health Strategy – Alcohol (Fact Sheet)

C. Policy relating to accidental deaths and suicides

14. Defence Safety Manual (SAFETYMAN) volumes 1 and 2
15. Defence Instruction (General) Personnel 11-2: Notification of service and non-ADF casualties
16. Defence Instruction (General) Personnel 20-6: Deaths within and outside Australia of Australian Defence personnel
17. Health Policy Directive 209: Suicide - Management of suicide attempts and gestures by ADF personnel
18. Defence Instruction (Navy) Personnel 5-2: Casualties – Injuries, Deaths, Boards of Inquiry, Inquests and Post-Mortems
19. Defence Instruction (Navy) Personnel 40-5: Management of threatened, attempted or completed suicide within the RAN
20. Chief of Army Directive 14/03: The administration of incidents of sudden death
21. ADF Mental Health Strategy – Suicide (Fact Sheet)
22. ADF Mental Health Strategy – Post-traumatic stress disorder (Fact Sheet)

D. Other policy issues

23. Defence Instruction (General) Personnel 34-4: Use and management of alternative dispute resolution in Defence
 24. Defence Instruction (General) Personnel 35-5: Discrimination, harassment, sexual offences, fraternisation and other unacceptable behaviour in the ADF
 25. The ADF Mental Health Strategy (Pamphlet)
 26. A Guide for Commanders – ADF Mental Health Strategy (Pamphlet)
 27. Serving in Australia's Navy, 2003 (Booklet)
 28. Divisional Staff Handbook – Serving in Australia's Navy, 2003 (Booklet)
- Australian Defence Force: Attachments to ADF submission P16, *19 February 2004*, Military Justice Procedures in 2 volumes:
 - Volume 1: Discipline Law Manual (ADFP 201) *April 2001*
 - Volume 2: Defence Force Discipline Act 1982 prepared on 14 January 2004 taking into account amendments up to Act No. 135 of 2003

Defence Force Discipline Rules 1985 prepared on 25 February 2002 taking into account amendments up to SR 2002 No.24

Defence Force Discipline Regulations 1985 prepared on 24 December 2003 taking into account amendments up to SR 2002 No.7 and Act No. 135 of 2003

- The Winston Churchill Memorial Trust of Australia Report "An Overview of Support Strategies for Australian Defence Force Bereaved Families" by Kristin Ferguson *March 2004*
- Judgement of the High Court of Australia: Re Colonel Aird; Ex parte Alpert [2004] HCA 44 *9 September 2004*
- Judgement of Justice Crispin in the ACT Supreme Court: Russell Vance v Air Marshall Errol John McCormack in his capacity as Chief of Air Force and The Commonwealth [2004] ACTSC 78 *2 September 2004*
- Department of Defence, *13 April 2005* – details of staffing levels in the office of the Director of Military Prosecutions.
- Mr David Hartshorn *email of 4 April 2005* – received feedback to his public submissions 52 and 52A
- "Review of the ADF Redress of Grievance System 2004" A joint report by the Department of Defence and the Office of the Commonwealth Ombudsman, *27 January 2005*. Received 21 April 2005.

Tabled documents

Michael Griffin Issues Paper, Senate Inquiry into the Effectiveness of the Military Justice System, Paper commissioned by the Senate Foreign Affairs, Defence and Trade References Committee

1 March 2004 Canberra

Chief of Navy Acting Leading Seaman Gurr BOI recommendations – Executive Summary

Chief of Army Fair Go Hotline - Answer to question on notice 1 March 2004 by Senator Johnston

21 April 2004 Hobart

Mrs Susan Campbell Photograph of Eleanore Tibble receiving a trophy from the Lord Mayor of Hobart for singing at Eisteddfod

Mrs Susan Campbell Letter from Air Marshall Houston to Mrs Susan Campbell dated 6/4/04

Miss Melissa Munday Statement made to BOI and changes made by naval lawyer

9 June 2004 Canberra

Mr Grant Clark Directive from Director General The Defence Legal Service— Support to Boards of Inquiry dated 16/07/03

2 August 2004 Canberra

CAPT Helen Marks Leaflet: Information for participants of ADR

CAPT Helen Marks Leaflet: A workplace dispute? Try ADR

CAPT Helen Marks Leaflet: Alternative Dispute Resolution ADR is fast, flexible and fair

6 August 2004 Canberra

COL Ian Westwood Table of combined figures for number of people committing offences overseas

COL Ian Westwood Table of offences committed overseas: IRAQ and East Timor

COL Ian Westwood Table of offences committed overseas

COL Ian Westwood Table of offences committed overseas – not IRAQ or East Timor

COL Ian Westwood Duty statement for the position of Chief Judge Advocate

Answers to questions on notice

Hearing date

1 March 2004 Dept of Defence dated 29 April 2004 – Answers to 10 questions on notice relating to:

1. Rate of prosecutions in Army compared to other Services
2. Air Force Inquiry report into the suspension of CSGT Eleanore Tibble
 - Attachment 1: Inquiry into the administrative processes and procedures surrounding the suspension of CSGT Eleanore Tibble G1465 – Investigating Officer's report *May 2001*
3. Control of volunteer staff in the Cadets
4. Remuneration of volunteer staff in the Cadets
5. Nature of prosecutions under General and Restricted Courts Martial and Defence Force Magistrates
 - Attachment 2: JAG report for 1998
 - Attachment 3: JAG report for 1999
 - Attachment 4: JAG report for 2000
 - Attachment 5: JAG report for 2001
 - Attachment 6: JAG report for 2002
 - Attachment 7: Defence Force Discipline Rules 1985 – Schedule of Offences – valid prior to 15 Dec 2001
 - Attachment 8: Defence Force Discipline Rules 1985 – Schedule of Offences – valid from 15 Dec 2001 to the present
6. Handling of Defence responses to other witnesses' evidence
7. Composition of Defence Taskforce and resources allocated
8. Defence legal resources
9. People involved in the Military Justice system
10. Handling of questions on notice

9 June 2004 Defence Force Ombudsman dated 2 August 2004 – Answers to 5 questions on notice relating to:

1. Establishment of an independent agency to conduct investigations
2. Enhanced role for CRA
3. Streamlining of complaints processes available to ADF personnel
4. Ombudsman recommendations to ADF
5. DFO initiation of an 'own motion' investigation

- 21 June 2004 Dept of Defence dated 30 July 2004 – Answers to 4 questions on notice relating to:
1. ADF mental health screening
 - Attachment 1: Health Bulletin No.9/2003
 2. Granting of leave on medical grounds
 3. Training for officers in suicide prevention
 4. Cadet enhancement program
- 2 August 2004 Dept of Defence dated 3 September 2004 (also sent on 1 November 2004) – Answers to 4 questions on notice relating to:
1. Defence Community Organisation – standard operating procedures
 - Attachment 1: Defence Instructions (General) Personnel 42-6: Defence Community Organisation support for next of kin of deceased members of the ADF and ADF Cadets
 - Attachment 2: Defence Instructions (General) Personnel 11-2: Notification of service and non-Australian Defence Force casualties
 - Attachment 3: Defence Instructions (General) Personnel 20-5: Funerals, graves and associated matters
 - Attachment 4: ADF Pay and Conditions Manual Part 6 Chapter 9 – Payment of financial entitlements on death
 - Attachment 5: Health Bulletin No. 12/2003 – Critical incident mental health support program
 2. Redress of Grievance statistics
 - Attachment 6: Table showing redress of grievance statistics by service as at 26 August 2004
 3. Alternative dispute resolution awareness and training
 4. Redress of Grievance process in relation to action of a service chief
 - Attachment 7: Defence Force Regulations 1952, Part XV, Redress of Grievances
- 5 August 2004 Dept of Defence dated 2 December 2004 – Answers to 14 questions on notice relating to:
1. Travel assistance for next of kin
 2. Legislative amendments re Director of Military Prosecutions and Chief Judge Advocate
 3. Review of military police investigative capacity
 - Attachment 1: Review of military police battalion investigative capability – Report by Ernst and Young *June 2004*
 4. Ms Melissa Munday's posting preferences with confidential attachments
 5. Psychologist paper on the management of personnel returning from service on ships in the Middle East– confidential attachment
 6. HMAS Westralia – post traumatic stress disorder statistics
 7. Copy of McIvor report – not approved for release
 8. Drug testing
 9. Legal representation during BOI into disappearance of LS Gurr
 10. Vetting of cadet staff
 11. Investigations in ADF cadets
 12. Investigating Officer training

- Attachment 2: Investigating Officer training – course timetable and lecture outline *September 2004*
13. Inspector General ADF – cases
14. ADF attitude survey
- Attachment 3: Defence Attitude Survey 2003 – Military Justice supplement
- 6 August 2004 Dept of Defence dated 3 September 2004 (also sent on 1 November 2004) – Answer to 1 question on notice:
1. Request for copies of Defence instructions and manuals relating to the conduct of disciplinary investigations and hearings, the Discipline Law Manual and the McClelland review of the Defence Legal Service
 - Attachment 1: Defence Instructions (General) Personnel 12-1: General scope of legal assistance provided to service personnel and legal aid to Australian Defence Force members overseas
 - Attachment 2: Circular Memorandum No. 7/2002 *3 May 2002* - Application for indemnity and legal assistance at commonwealth expense including the Attorney General's legal services directions referenced in the Memorandum
 - Attachment 3: Independent Review of the Defence Legal Service – Final Report by Alan McClelland *April 2003*. (confidential)
- 10 August 2004 Dept of Defence dated 5 November 2004 - Answers to 4 questions on notice relating to:
1. Manuals used by military police for conduct of disciplinary investigations
 - Attachment 1: Defence Investigation Technical Instructions 2003 Chapter 1 (confidential)
 - Attachment 2: Navy Investigative Service Quality Manual April 2002 (confidential)
 - Attachment 3: List of all Defence policy documents relating to investigations conducted by military police (confidential)
 - Attachment 4: 5th Military Police Company Special Investigation Branch – Standing Orders March 2004 (confidential)
 - Attachment 5: Military Police Technical Instructions May 1985 (confidential)
 - Attachment 6: RAAF Police Manual (undated) Section 4
 2. Redress of Grievance statistics
 3. Public duty and private interest
 - Attachment 7: Defence Instructions (General) Personnel 25-3: Disclosure of interests of members of the ADF
 - Attachment 8: Defence Instructions (General) Personnel 25-4: Notification of post separation employment
 4. Reason why Boards of Inquiry not appointed for several cases
 - Attachment 9: Administrative Inquiries Manual (undated) Annex E to Chapter 2 – Selecting the most appropriate type of inquiry
- Clarification - 1 March and 2 August 2004
- Dept of Defence dated 10 September 2004 – Clarification of statistics provided to Committee at hearing on 1 March 2004 (Hansard page 45) and

answers to question on notice taken at hearing on 2 August 2004 (Hansard pages 26 and 27) in relation to the number of Redresses of Grievance.

Clarification - 2 August 2004

Di Harris, Director, Complaint Resolution Agency dated 6 August 2004.
Letter to Committee correcting errors in evidence given on 2 August 2004.

Clarification - 5 August 2004

Chief of Army dated 17 February 2005. Letter to Committee updating evidence given at hearing on 5 August 2004 re inquiry by Brigadier Dawson into the performance of several officers responsible for implementing the recommendations of the Amos Report.

Written question on notice from Committee Chair, Senator Hutchins

Dept of Defence dated 21 June 2004 – Answer to 1 written question on notice from Senator Hutchins:

1. What happened to remaining sailors on board HMAS Westralia?
Revised answer received from Dept of Defence dated 2 August 2004

Written question on notice from Chair, Senator Hutchins, 24 June 2004

Dept of Defence dated 10 December 2004. Answers to 6 written questions on notice relating to HMAS Westralia.

