

**Senate Foreign Affairs, Defence and Trade  
References Committee**

**SUBMISSION COVER SHEET**

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**Inquiry Title:** Effectiveness of Australia's Military Justice System

**Submission No:** P12

**Date Received:** 05.02.04

**Submitter:** Mr Pembroke Prowse

**Organisation:**

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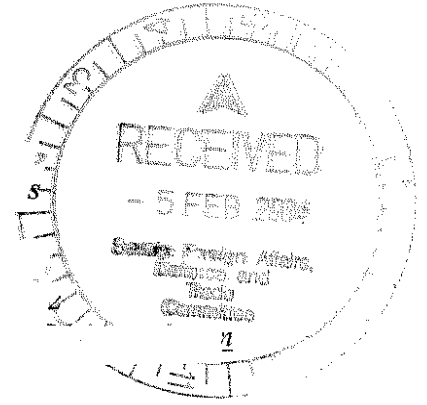
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**Date Authorised:**



4<sup>th</sup> February 2004

*The Secretary  
Senate Foreign Affairs, Defence & Trade  
References Committee  
Suite S1-57  
Parliament House  
Canberra ACT 2600*

*Dear Sir/Mam,*

*The following is my submission to be included in the inquiry into the effectiveness of Australia's Military Justice System.*

*As stated in my in my letter covering my submission into the Military Justice Procedure (1998), I again reiterate that it is my strong belief that we owe those who serve our nation both in times of peace as well as conflict both now and in the future, a Military Justice System that will absolutely guarantee transparency, fairness and accountability.*

*I would be willing to appear before a Public Hearing if so required.*

*Thank you for the opportunity to express my beliefs.*

*Yours sincerely,*

*Michael Pembroke Prowse*

**Submission  
Into  
Senate Foreign Affairs, Defence, Trade References  
Committee**

*I am a retired member of the Australian Defence Force (ADF) with almost 40 years service in both the permanent and reserve components, the last 29 years as a Senior Non Commissioned Officer (SNCO). Since 1985 I have also been involved with Ex-service organizations at an Executive level and during this time have been able to converse with many other members of the ADF and their families.*

*It is my belief that a great many of the recommendations handed down at the conclusion of the 1998 Inquiry into the Military Justice Procedures have not been implemented and for various reasons will not be implemented due to interests of the Defence bureaucracy.*

*It is absolutely imperative that strict time limits be place on the implementation procedure related to all recommendations that are handed down by a Senate Inquiry. The ADF must be held accountable to the people of Australia. Do continue to no report back policy simply make the Inquiry a sham, does absolutely nothing for the morale of the Service person and destroys the confidence in the very system which is supposed to look after them.*

*The Military Justice System (MJS) is a bureaucracy within a bureaucracy and like all bureaucracies it lacks TRANSPARENCY, allows abuse of honesty which destroys credibility and trust of those involved. This must change. If there was complete trust in the MJS there would be no need for 1800 numbers to lodge Ann ominous complaints because of the lack of trust in the system*

*After speaking with many ADF members and families I am horrified that a great percentage do not know there rights, in that they can make submission's to the Defence Force Ombudsman, nor are they aware that they can contact their local Member of Parliament with matters of concern.*

*It must be noted at this point that during my career that two senior supervisors tried with out luck to intimidate both myself and my Wife after contacting my local Member of Parliament who was at that time Minister for Defence Science and Personnel and a good friend. I was told by these to unscrupulous people to control what my Wife said and to whom. Although their intimidation didn't work the matter certainly tainted my career.*

*Having said this, the only effective external independent mechanism available to the member of the ADF to ensure proper investigation of the "due process" by the Defence force is the Defence Ombudsman. It is unfortunate that this normally only occurs after the failure of the military redress and investigation system, of which both can in a high percentage of cases destroy the members Career. I am sure that this failure rate is in the very best interest of the system by ensuring the matter concerned does not at any time become public knowledge. (Transparency failure)*

*Like others I believe there should be some form of independent review system in place to investigate member's complaints prior to the Ombudsman intervening. This would hopefully convince the service member not to give in to extreme pressure that can and often is exerted upon them in the hope they will give up.*

*It takes an enormous amount of courage to take on the Military system and the system will and does use inordinate amounts of power to manipulate to manipulate any inquiry or any investigation that suits their agenda, knowing full well that the member will in most cases capitulate in fear that their career will be destroyed through intimidation, implied or real.*

*This intimidation includes the use of a member's confidential report which are raised on all members above the rank of Corporal in the Army. The other services have similar system. These reports form the fundamental basis of a soldier's career path which includes both future postings and promotion. Both these principle factors ultimately affect both pay and conditions.*

*These reports which include a Unit Commanders overall appraisal and duly signed are completed by the members immediate supervisor ( even though this person may not have known the person for any length of time), and are based on the persons ability to appraise the competence and professionalism of the member. Should the immediate supervisor be such person of ill intent, prejudice and hostility, then there is a very real concern that the soldier can be personally denigrated and career jeopardized or in the worst case scenario be ruined or the member discharged from the service.*

*This has affected me personally and this system has been used in an endeavour to ruin the career of my Son who is a current serving member of the ADF. This declared prejudice and often open hostility cannot be tolerated and when this is actually condoned by a superior officer constitutes deliberate, hostile denigration and discrimination against a member.*

*In the light of this form of intimidation continues to this very day, amendments to legislation are required to enforce senior ranks at ALL levels be accountable for ALL breaches of fidelity to duty concerning dealings with subordinates.*

*Yet another form of insidious intimidation is that of the "Old Boys Net". This system is imbedded in the Defence system. Again a senior person who holds a grudge or simply dislikes a junior member for no valid reason can distort facts which will in turn play havoc with a member's future career causing undue amounts of stress and anxiety.*

*There is absolutely no argument that the Defence force must have a sound disciplinary code to ensure the proper function in both times of conflict and peace including peace keeping operations in other countries and territories. However discipline must be handled in a judicial manor. There needs to be greater training for those members of the ADF who will be called upon to either Prosecute or Defend a*

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*Member for minor breaches of the Defence Force Disciplinary Code. The presiding Officer should where ever possible be independent from the offenders unit to ensure that natural justice is upheld.*

*At present it is not clear as to whether a line can be drawn as a indication of the difference between such crimes carried out by the Defence force personnel are of a Defence nature or one that could be classed as a civilian nature. Those which are however classed as a civilian nature should be handled by the civilian judicial system. Following trial and possible conviction it should be determined if further action is required under the Defence justice code. i.e. Reduction in Rank, loss of privilege or Discharge from the ADF etc.*

*All members of the ADF have a right to natural justice and it must be secure from manipulation at any level, and it is absolutely paramount that military leaders are seen to be above reproach. Integrity must be absolute otherwise the system will fail and the ultimate losers are the members and their families.*

*In closing this submission, I am continually surprised by the lack of knowledge by member as to their rights, about the Defence Ombudsman and the role that Office fulfills in the justice system or how and where to contact that office and what they can raise as a matter of right. Likewise that they are completely within their rights to contact their local Member of Parliament on matters of concern which may effect their career and lives of their family.*

*Again it the lack of education of the member as one who known his rights and not scared to stand up to the system is a danger and trouble maker and must be stopped in any manor available to the system.*

*Members of our Defence Force are like all Australians, entitled to their rights and Natural Justice.*

*Michael Pembroke Prowse  
4<sup>th</sup> February 2004*