

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

SUBMISSION COVER SHEET

Inquiry Title: Effectiveness of Australia's Military Justice System

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SUBMISSION – SENATE INQUIRY INTO THE AUSTRALIAN MILITARY JUSTICE SYSTEM

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1 By way of background, I was on duty at RAAF base Laverton Victoria attending a promotion course at RMIT University. During the course I became concerned about the performance of a junior Petty Officer. Being on duty in a public facility I believed the Petty Officer was behaving in a manner that did not promote the image of RAN. At an appropriate time I saw fit to consult the Petty Officer.

2. I chose a quiet time to discuss the matter with dignity in a private setting. At all times my intentions were pure. The Petty Officer needed to be reminded of his responsibility in presenting as a principled and respectable member of the Australian Defence Force. I intended to remind him of his obligation to at all times act in a manner consistent with RAN expectations particularly bearing in mind that we were all under public scrutiny. To lessen any embarrassment that might impact on the Petty Officer I waited until course personnel had left for the day. I then requested a quick meeting. When I raised the issue he flew into a rage. He used offensive words towards me before turning his back on me and walking off. I was affronted, at his display of gross insubordination.

3. It was my duty to remind the Petty Officer of appropriate and expected etiquette. I informed him that if he did not take the matters seriously, I would be left no alternative other than to file a report. The Petty Officer again used offensive language towards me and forcefully closed a door so that it hit my foot and hands. I attempted to regain control of the exchange by raising my voice. Without warning I was struck a severe blow to the left side of my face. The Petty Officer then adopted a boxing stance and launched a vicious attack to my head landing at least four more punches. I fell to the floor; I think losing consciousness for a short time. When I regained some rational thought I found the Petty Officer standing over me threatening that next time he would kill me. The Petty Officer then hurriedly left the area leaving me on the floor of the accommodation block.

4. I made my way to RAAF Base Laverton Hospital and was given interim treatment by medical staff. I vaguely remember speaking to the RAAF police and believe I was told that the assault would be assigned to the Victorian State Police for appropriate action. I was then taken by ambulance to Geelong private hospital for X-rays and CAT scans to my face and head. I had received multiple fractures to my cheekbone, a broken nose, a broken and compressed orbital floor (eye), a sprained jaw and damage to my teeth.

5. I was hospitalised for two weeks and underwent surgery to repair my face. A Titanium plate has been permanently inserted in an attempt to reconstruct the damaged area around my eye. After intensive treatment the end result is that I have suffered permanent disfigurement that has required further plastic surgery. I have lost the nerves in both front teeth with resultant discolouration that will continue to deteriorate and have enduring loss of feeling to the left side of my face.

6. Following this incident I believed the appropriate course of action was to wait until investigations and any action flowing from those investigations was complete.

Shortly afterwards and continuing (and despite my silence) I received information the Petty Officer has proclaimed to all and sundry a version of events that is far removed from the truth. Whilst this information has caused me great pain I had weathered the comments in the hope that the matter would soon be finally determined.

7. On the 09 May 2003 I wrote a formal request to the Commanding Officer of HMAS Albatross seeking advice to the status of the investigation. A further five months later on September 2003 I received a reply from the Commanding Officer stating that there was no conclusive evidence to back up my allegations and the Navy would not be taking any disciplinary action against my attacker. I then wrote a Redress of Grievance to the Commanding Officer on 29 October 2003, requesting the Navy appoint an investigating officer to re-examine the facts of the incident. I am still waiting for a reply to my grievance.

8. The assault has caused me an immense amount of personal distress. Notwithstanding considerable endeavours on my part to gain answers as to the status of the investigation I have been stonewalled at every turn. It appears that there is either a malignancy of buck passing or serious lack of effective interagency liaison.

9. I am sure you will appreciate that this matter is never far from my mind. I consistently wrestle with thoughts of the assault exploding into my consciousness without warning or pattern. I am exasperated at the lack of closure and have contacted the media to try and put more pressure on the Navy to try and gain answers to my situation. This in hindsight may have not been in the best interests of my career, however the emotion turmoil I have undergone may well have clouded my judgement. My only intention was to have my attacker made accountable for his actions. I want to clear my name and reputation as I feel it has been tarnished by lack of action from the Navy.

10 It is unthinkable to me that I was assaulted on a Defence Establishment, whilst conducting my lawful duty, and trying to counsel a subordinate about his attitude and conduct and I sustained serious injuries in doing so. I reported the matter to Service Police and to date my attacker remains free. He has not been held accountable for his actions. I hope the Senate committee will examine the lack of effective action by the Navy's military's justice, the quality of the inquiry by the Navy and hopefully provide me with a fair and impartial outcome.

CPO John Hyland
02 Feb 2004