

**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:** P29

**Date Received:** 16.02.04

**Submitter:** NAME WITHHELD

**Organisation:**

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**Date Authorised:**

**Submission to the Senate Foreign Affairs, Defence and Trade References Committee.**

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**Relating to Terms of Reference:**

(1)(a)

the effectiveness of the Australian military justice system in providing impartial, rigorous and fair outcomes, and mechanisms to improve the transparency and public accountability of military justice procedures;

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In September 2003, my daughter was accused of a matter concerned with an alleged study malpractice. This matter was investigated thoroughly and she was issued with a Notice to Show Cause - Censure on 12 September 2003.

She responded with a rebuttal to the allegations on 26 September 2003.

The matters alleged to have taken place have to this day not been proven nor dealt with in a reasonable timeframe and as such, my daughter commenced her career in the Regular Australian Army earlier this year with these allegations as yet unproven nor resolved.

It appears that a number of military personnel have had an opportunity to consider the allegations and make comment. The matter has been dragging on for five months and continues to hang as a threat to her career without the benefit of fair judicial process being afforded her.

My daughter refutes most of the allegations made in the Notice to Show Cause - Censure. She has obtained character references to support her integrity and if given the opportunity to defend the matter, is confident she has the sufficient evidence to prove herself innocent of the allegations. She has been seeking access to an equitable process to defend the allegations but has been denied this opportunity.

As the parent of a high-achieving young adult who is generally considered as having intense moral fibre and fortitude, and whose integrity has never before been called into question, the nature of these allegations is having a serious detrimental affect on her and I am concerned for her physical and mental well-being.

I have spoken to Lt Colonel (Padre) Phil Anderson about the incident alleged to have occurred. He is the only military personnel I have discussed this matter with and I am confident that with his assistance given a reasonable process, conducted with judicial fairness, the allegations would be set aside or at least downgraded based on Kelly's past performance at the Australian Defence Force Academy and her supporting references as to character and integrity.

At the start of this year, with this unresolved matter hanging over her, I was fearful of her state of mind. I continue to be concerned about her well-being despite having pleasing news from her that she is progressing well with her studies on her current training course at Bandiana.

I apologise that I am an lay person not familiar with the jargon used in the military, however my daughter's name, rank and the dates and the venue would identify her and approximately 7 other young officers affected by this most serious matter.

I am using this opportunity to ask the Standing Committee to consider whether the practice of the Australian Army to accuse a new and young officer of a serious breach and not follow a reasonable process to determine the matter, is an example of the effectiveness of the Australian military justice system in providing impartial, rigorous and fair outcomes?