

**Senate Foreign Affairs, Defence and Trade
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This is my submission to the Senate Enquiry into Military Justice.

I was in the navy from Jan 11 1976 to Aug 1 1980, I was sixteen years old and my story is as follows.

I joined the RAN to get a trade recognised by civilian standards be part of a team and see the world at the same time or so the TV advertisements said at the time. I was sent to HMAS Nirimba to complete two years of training as an Electrical Technical Power and gain civilian aligned qualifications as an Electrician. This however was not true, it may be different now however I do not have anything to do with anyone in the service so I don't know, but the first thing I had to do after I got out was go back to trade school.

During my two years at Nirimba, I was constantly and consistently bullied by a member of my own class. I was 5'2" and about 60Kg he was about 4" taller than I was and about 30kg heavier, or so it seemed to me, a rugby player and a bully. He never assaulted me to the point where I needed medical attention, however I did develop a neck complaint, from the constant headlocks that he insisted on putting me into whenever he felt like it, this still causes me pain even today. To other members of my class it was funny and they did not and would not get involved, stand up for your self I was told, even by the apprentice captains who were supposed to be looking out for me and others. He instilled such fear in me that I avoided being anywhere near any place that I thought he might turn up including the accommodation block where I lived and other facilities on the base designed for the recreational use of the other apprentices. I might add that he was not the only member of the RAN to bully me just the most persistent and the one that I remember the most. I spoke to the apprentice captains and the divisional chief petty officers and was told that if they intervened it would only make matters worse so they did nothing at all. Even if they had intervened after hours we, the apprentices, were left on our own unsupervised by adults from 1600 til 0700 the next day. This bullying and lack of action lasted for two years and I became more and more frightened of what might happen to me next and afraid for my safety.

About 8 weeks into my first year another first term apprentice was caught with someone else's cap in his locker. With out any questions being asked he was marched up to the Warrant Officer Coxswain's office to be charged with theft. The Warrant Officer took one look at him and said that he, the apprentice, did not look like a thief to him. The WO's instructions were to take the apprentice out the back and bring him back when he did look like a thief. The next time I saw this apprentice he had been beaten up. He fronted the Captain's table where he was sentenced to 30 days in Holsworthy and was to be dishonourably discharged at the completion of his time. The Commander told us of his fate at Parade. The process of fronting the table was not a trial the accused was not allowed to say anything. The outcome was worked out by the Commander or Captain, the accused's Divisional Officer and the Coxswain in an almost preordained manner. Basically if you were charged you were presumed guilty otherwise you would not have been there in the first place.

At the end of every six-month period the 4th or 5th term apprentices graduated in what was called the passing out parade. During the night before the parade it was common, if not customary, for some members of the graduating class to go berserk and do stupid things. I along with other more junior apprentices would be at the very least rolled out of our beds while we slept, a very rude and frightening way to be woken up. I can remember this happening to me twice in two years along with being beaten up by some 5th termers, who always passed out mid term, the beating occurred when I was in third term by three senior apprentices and I thought that I was going to die. This beating would have been worse except for the intervention of another senior apprentice AATC T, living in my 4-berth cabin at the time. The reason that these things happened was because the only supervision that we had was by other kids the same age as us.

I was grateful to AATC T at the time, however later I came to regret the fact that he had intervened when he made sexual advances towards me. I do not want to be specific at this point in time however I was bullied and manipulated into having homosexual sex with him. I remember that at that time I thought that my choice was sex or a beating. At this point in time I did not tell anyone not even my parents because I was so ashamed of what had transpired. He passed out a couple of months later and I tried to get on with my life in the service. I probably should have left then and there but I did not have anyone to turn to after all the powers to be did not listen to grievances or even act on them. The other problem was that if you told anyone then you would suffer the fate that another apprentice in my intake suffered and that was that he was beaten up on the base by an unknown assailant. He spent the next three weeks in hospital. He was the only one who did not know who the perpetrator was but after his experience I don't think that he would have told anyone even if he did know anything. He was not alone in his fear I guarantee you that.

After I graduated from HMAS Nirimba, at the top of my class, I was drafted to HMAS Watson and then on to HMAS Perth. The first day on the ship was terrifying for me as an older sailor whom I do not remember sat next to me and pretended to touch me up, a minor experience as it turns out. The ship spent some time alongside preparing for [REDACTED] exercises. This was to be my first trip on the ship. I had been on the ship a very short time and basically new no-one. I was befriended by LSETW X and LSETS Y who were showing me the ropes as it were, I thought that they were being mentors, at this stage I was just 18 years old and I was grateful for their time.

I cannot remember the exact timing but LSETW X invited me to stay at a house that he was looking after for one of his army friends, he told me that it would do me good to spend time away from the confines of the ship. I drove out to the house and, I think it was a Saturday afternoon, drank some beer watched TV and relaxed grateful to out of the confines of the ships mess (bunkhouse). Later that evening I went to bed alone and fell asleep. I cannot remember what time it was but later, LSETW X woke me up, he was trying to tear my underpants off me. I was very scared he calmed me down and convinced me to let him suck my penis and that just because I did I was not a homosexual. After this he allowed me to go back to the ship. I still did not tell anyone because as this was the second time that this had occurred I was starting to think that I was a homosexual and somehow to blame for what was happening to me. I was also sure that if anyone found out I would be dishonourably discharged from the Navy, which for some inexplicable reason I still wanted to be a part of.

A few weeks after this the ship sailed for the exercises [REDACTED]. I was very nervous about going to sea because during the course of my training at HMAS Nirimba I had been told that I would be a favourite amongst the lads at sea, due to my baby face good looks. I had also been told by the same people and the other members of HMAS Perth ships company that homosexuality was legal after three weeks at sea. One evening I returned to the mess after my evening meal when I was ambushed from behind and put into a full nelson by my direct boss LSETP A and then attacked from the front by ABETW B who was trying to unzip my overalls. This was a terrifying experience witnessed by the entire mess all of whom were laughing at the antics. After I kicked ABETW B my boss LSETP A started to try to calm me down and convince me that it was all a big joke. I have been reliably informed that LSETP A is now a Lieutenant Commander in charge of a school at one of the navy's training establishments. LSETP A was very intimidating and would always make comments about what he would like to do with me such as "I cant wait for you to get hung up on some live wires. So that I can beat you up with a lump of four by two to get you of it". By this time I was extremely nervous around all sailors but what could I do? My experience had taught me that no one was interested in, or cared about, what was happening to me. At this point I did not trust anyone in the navy at all.

Some time after the ship returned from the [REDACTED] exercise the ship was alongside in Garden Island and one night I was woken up by LSETS Y who was playing with my genitals. I could not believe it, this time I jumped out of bed and I started fighting him. During the struggle he bit my left ring finger and drew blood. Other sailors in the mess woke up during the scuffle and restrained me, I was warned by them to back off and I did. During the next week or so I decided that I had to do something about it and I told my direct boss a POETP he told me not to worry about it. I took some leave shortly after this incident and when I returned I was told by the Chief coxswain that LSETS Y had molested another junior sailor and was being charged for it. I was also asked to assist in the case by giving evidence. I declined because of the shame of the other incidents and my fear and anxiety of the consequences.

On the 15th June 1979 at about 2000(8PM) I was beaten up by LSETS Z, who was mates with LSETS Y, to the point where I decided to attend the sick bay at Garden Island. I know the date because I have the daily injury record that shows when I attended. It was made clear to me that I was at fault for what was happening to me and I knew why. I told the sick bay that I was beaten up but they only treated the injuries and sent me on my way. I was extremely frightened by all of this and did not want to return to the ship but where else and what else could I do, desertion meant jail and that I had heard was even worse than the navy.

I decided, finally, that I should leave the Navy and try to become normal again. By this stage it was almost impossible for me to sleep on board the ship, unless I was very drunk, and so I sought a transfer from the ship. I spoke to someone I knew, who at the time was an AB in one of the seaman ratings. He told me that through a friend of the family he knew the Naval Psychologist base in Melbourne and was a Naval Reserve Lieutenant. He said that he would introduce me to him and that because I was going to be transferred to HMAS Lonsdale in Melbourne where he was based he would be able to assist me in obtaining a discharge. I thought that this was great, how wrong could I be. I was transferred to the commissioning party of the HMAS Cook based at HMAS Lonsdale. The Engineering Officer of the HMAS Cook took a dislike to me and gave me a hard time. I thought because of what had happened on the Perth. As on one occasion he called me into his office and threatened me with a medical examination that would prove that I was a homosexual. I complained to the XO of HMAS Lonsdale and I was then put to work in the coxswain's office at HMAS Lonsdale, for my own safety I was told.

During the time I was waiting and working with the Naval Reserve Psychologist towards a discharge we became friends and I stayed at his house with a WRAN Lieutenant because I was still unable to sleep onboard Naval establishments. During this period the Naval Reserve Psychologist took advantage of my fear and anxiety and manipulated me into a homosexual relationship with him. I was at this stage 19 years old and very frightened, anxious and ashamed. I have since lodged a complaint with the Psychologist Registration Board of Victoria about him. Since I lodged my complaint he has informed the PRBV that he has left the country and would not be returning for at least five years, would not be practising as a psychologist and wanted his registration to lapse. The PRBV has told me that they will still have a board hearing about the matter even in his absence which is more than the Navy wanted to do. I might add that this man left the Navy and joined the Victoria Police Force in late 1980 but was forced to resign from the force, without being charged, when in 1985 he was caught in a compromising position with a Victoria Police Sergeant who was being arrested for child sex charges.

At this time I applied for a discharge and I was sent to the Area Psychologist at the Defence Force Recruiting Office, in Melbourne, to be assessed for retention in the RAN. I told him everything that had happened to me and included what was currently happening he listened but, as I discovered when I requested my record in 2000, he only made vague references in my psychological record about it. At this point in time nothing was done to any one that I had mentioned and none of them were named specifically in my psych record. Even I was not named specifically in my own psych record I am referred to only as X so it's not surprising no perpetrators were named. He did report to the navy that I had an anxiety that was real and severe and that he recommended that I be discharged forthwith.

Instead of being discharged the navy decided that I should be sent to HMAS Cerberus to reassessed for retention in the navy. At this time I still could not sleep on the base and even when I was hospitalised for a short time, due to a psychological reaction to what had happened to me, I would wake up whenever anyone entered the room or passed by the door. I therefore was forced to live off the base. The only time I stayed on the base was when I was on duty and it was a nightmare. My work had deteriorated to the point where I was constantly in trouble with the Chief of my section and dutywatches which required me to sleep on board were out of the question. Instead when I was rostered to keep a dutywatch I would have to work in the cafeteria until the evening meal was complete and then report to the watch house at the main gate where I was supervised until 2200. At this time I was permitted to drive home to sleep but I was required to report back to the cafeteria at 0530 for the breakfast shift after which I was to resume my normal working day. I slept in due to the long hours and did not arrive back on the base in time for the 0530 start and I was charged with being adrift, fortunately for me I was discharged the next day. If I had been required I am sure that I would not be here today as I would have had to serve fourteen days of punishment which would have meant staying overnight on the base. I have thought about ending my torment on a regular and constant basis since the navy and I am sure that if I had been charged then I would not be here now.

Eventually the psychologist at the psychology section of HMAS Cerberus reported to the navy that I had an anxiety condition that even if it could be reduced I would be unlikely to be able to return to sea or be comfortable with the company of other sailors and should be discharged. Shortly after his report I was discharged as unsuitable because I had become sick from what had happened to me.

During the past two years I have been trying to get my discharge status changed to invalidity due to mental incapacity through Peter McGauran and the liberal party. I want it changed for two reasons. 1 - It takes the blame for my condition from me and places it on the navy where it should be. 2 - If it is changed to invalidity I might be eligible for a payout from the DFRDB fund which would help me clear my debts. The problem is that due to the inadequacy of the military justice system not enough of what happened has been recorded and the defence departments view is that if nobody saw it or wrote it down then it did not happen.

Although I do have a letter from the Deputy Chief of the Navy, Rear Admiral R.C. Moffit acknowledging that

my service record indicates that some sort of incident or incidents may have occurred at sea that were horrifying to me and thus could have contributed to my current situation.

It is my opinion that the main problem with the military justice system is that it is run by military personnel and their pride in the forces makes it difficult for them to accept that some things actually go on. The rank system makes it difficult as well because anyone with a superior rank will automatically be given more credibility than a lower ranking victim. All of the incidents that happened to me were perpetrated by higher ranks and so when I reported them nobody wanted to believe me. The reporting of incidents is through the chain of command, to people who are of similar rank and usually mates with the perpetrators and is not recorded adequately if at all. The navy's point of view is that if nobody saw it did not happen.

Another issue is that eventually the victims get out either by being discharged as unsuitable or dishonourably, due to the affect that the events have on their personality and performance, or in the extreme by suicide. This leaves the perpetrators to continue their career and evil ways which perpetuates the cycle of violence.

In my experience the only way to improve the situation is to hand all the responsibility for these matters over to an independent body of properly trained professionals like the Federal Police. The Department of Defence needs to become accountable for the way it treats its personnel and that goes from the top all the way down.

Currently the military justice system is the epitome of self regulation with only the Defence Ombudsman to fall back on if you have a grievance. Unfortunately he is over whelmed by the razzle dazzle show put on for him by the legal staff of the Department of Defence. The Ombudsman and the Government are for the most part out of their depth when it comes to dealing with the Defence Forces because they have not been in them and do not know what they are dealing with. Even the good people in the department will not be able to assist the government with out a major shake up of the military because of the consequences that would be meted out on them if they did or said anything. The Department of Defence does not need to even try hiding behind the Official Secrets act to keep the government out of the loop because most serving members are to frightened to say or do anything.

[REDACTED]

Yours sincerely

David Down