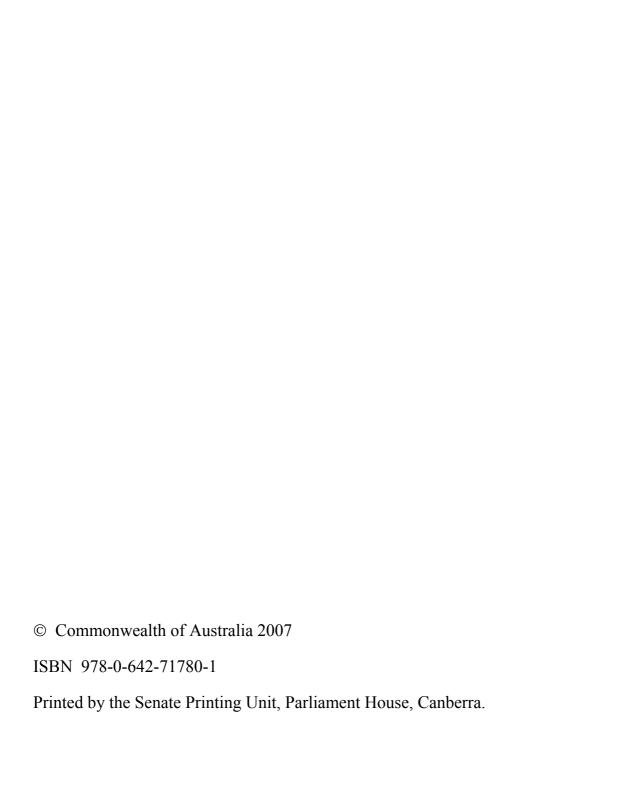
The Senate

Standing Committee on Foreign Affairs, Defence and Trade

Reforms to Australia's military justice system
Second progress report



Members of the Committee

Core Members

Senator Marise Payne, LP, NSW (Chair from 21 March 2007)

Senator David Johnston, LP, WA (Chair until 21 March 2007)

(discharged 23 March 2007)

Senator Steve Hutchins, ALP, NSW (Deputy Chair)

Senator Mark Bishop, ALP, WA

Senator Alan Ferguson, LP, SA

Senator Michael Forshaw, ALP, NSW (appointed 28 February 2007)

Senator John Hogg, ALP, QLD

Senator Sandy Macdonald, NATS, NSW (appointed 23 March 2007)

Senator Russell Trood, LP, QLD

Participating members who contributed to the inquiry

Senator Judith Adams, LP, WA Senator Chris Evans, ALP, WA

Secretariat

Dr Kathleen Dermody Committee Secretary Foreign Affairs, Defence and Trade Committee Department of the Senate PO Box 6100 Parliament House Canberra ACT 2600 Australia

Phone: + 61 2 6277 3535 Fax: + 61 2 6277 5818 Email: fadt.sen@aph.gov.au

Internet: www.aph.gov.au/Senate/committee/fadt ctte/index.htm

TABLE OF CONTENTS

Members of the Committee	iii
EXECUTIVE SUMMARY	
Introduction	vii
Investigative capability	vii
Independence of investigating officers	ix
Review of the Defence Force Disciplinary Act	X
ADF culture	xi
CHAPTER 1	
REVIEW OF THE IMPLEMENTATION OF REFORMS TO	
AUSTRALIA'S MILITARY JUSTICE SYSTEM	1
INTRODUCTION	1
Background	1
Government's response to the committee's recommendations	1
Defence's first progress report and the committee's review of Defence's progress	
Defence's second progress report	2
Conduct of the inquiry	2 3 3
Structure of the report	3
Acknowledgments	3
CHAPTER 2	_
DISCIPLINARY SYSTEM	5
Investigative capabilities of the ADF	5
The Audit of the ADF investigative capability	6
Basic skills	9
The Report of the Board of Inquiry into the Death of Private Jacob Kovco	10
Chain of command and influence on investigations	11
The referral of criminal matters to civilian authorities and the relationship	10
between service and civilian police	13
Committee view	16
CHAPTER 3	
MILITARY TRIBUNALS	19
Office of the Director of Military Prosecutions	19
Director of Defence Counsel Services	20
Permanent Military Court	20
CHAPTER 4	
ADMINISTRATIVE SYSTEM	25
Redress of Grievance	25
Committee view	26

CHAPTER 5			
INVESTIGATIONS INTO NOTIFIABLE INCIDENTS	27		
Commissions of Inquiry			
The role of state coroners	28		
Committee view	29		
The independence and impartiality of an investigator	29		
CHAPTER 6			
THE DEFENCE FORCE DISCIPLINARY ACT	33		
Call for a review of the Defence Force Disciplinary Act	33		
Committee view	34		
CHAPTER 7			
ADF CULTURE	35		
ADF culture—a demanding environment	35		
Learning culture in the ADF	36		
Assistance to trainees	41		
Retention rate in training schools	41		
Conclusion	42		
APPENDIX 1			
PUBLIC HEARING AND WITNESSES	43		
APPENDIX 2			
THE COMMITTEE'S 2005 RECOMMENDATIONS AND THE			
GOVERNMENT'S RESPONSE	45		
APPENDIX 3			
DEPARTMENT OF DEFENCE: PROGRESS OF ENHANCEMENTS			
TO THE MILITARY JUSTICE SYSTEM, OCTOBER 2006	69		
APPENDIX 4			
COMMITTEE'S WRITTEN QUESTIONS TO DEFENCE	83		