

‘Re-thinking systems of inquiry, investigation, review and audit in Defence

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Introduction

There have been numerous inquiries dealing with various aspects of Defence's system of inquiry, investigation and review in the past. Overwhelmingly, these have been in relation to ADF systems, and have not dealt with APS personnel. Many recommendations in these inquiries have relevance to the current project, whether agreed or not. However, perhaps more importantly, the general observations and comments in each inquiry resonate with the themes that have developed through the current project. The inquiries provide an important historical record of some of the reasons we have the systems and structures we have now. They are also a valuable resource to the current project in terms of identifying problems, as well as the processes that have previously been developed to rectify them. In some cases, the inquiries have attempted to identify essential components of particular aspects of inquiry, investigation or review processes.

Previous relevant inquiries considered in this project are:

- Senate Committee report 1994 (Report to the Senate on the Elimination of Sexual Harassment in the ADF)
- Burton report 1996 (Women in the ADF)
- Quinn report 1996 (Sexual harassment in the ADF)
- Abadee report 1997 (A study into the judicial system and under the DFDA)
- Grey report 1998 (Report of the review into policies and practices to deal with sexual harassment and sexual offences at ADFA)
- Defence Force Ombudsman's report 1998 (DFO's own motion investigation into how the ADF responds to allegations of serious incidents and offences – review of practices and procedures)
- Joint Standing Committee report 1999 (Military Justice procedures in the ADF, Joint Standing Committee on Foreign Affairs, Defence and Trade)
- ANAO Report 1999 (Audit Report No 46, Redress of Grievances in the Australian Defence Force)
- Joint Standing Committee report 2001 (Joint Standing Committee on Foreign Affairs, Defence and Trade, *Rough Justice? An investigation into allegations of Brutality in the Army's Parachute Battalion*)
- Burchett report 2001 (Report of an inquiry into military justice in the ADF)
- Acumen Alliance audit 2003 (The Defence Legal Service Board of Inquiry Management Audit)
- Senate Committee report 2005 (the effectiveness of Australia's military justice system)
- Investigative Capability audit 2006 (Report of the Audit of the ADF Investigative Capability)

- Defence Force Ombudsman's report 2007 (Defence Force Ombudsman's own motion investigation – management of unacceptable behaviour complaints in the ADF)
- Street / Fisher report 2008 (Report of the Independent Review on the Health of the reformed military justice system)

The recommendations from each inquiry are listed at Table 1. The table outlines whether the recommendation was agreed or not, and provides an indication of the relevance of each recommendation to this project.

The summary below outlines the subject of each inquiry, and its relevance to the current project. The outcomes of these inquiries have been considered in the process of determining the essential components of an optimal system, and will also be considered in Stage B when developing options for a new system. More recent inquiries that are still under consideration have been considered in the report under 'related reform activity'.

Summary of previous inquiries

Senate Committee report 1994 (Report to the Senate on the Elimination of Sexual Harassment in the ADF)

This inquiry by the Senate Standing Committee on Foreign Affairs, Defence and Trade followed incidents of alleged sexual harassment and assault during a deployment of HMAS *Swan* in 1992. The Committee made recommendations that generally involved the ADF taking steps to raise gender awareness and preventing unacceptable sexual behaviour from occurring. The report is available online at:

http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=fadt_ctte/completed_inquiries/pre1996/harassment/index.htm

Given its age, this report is of limited relevance to the current project. It illustrates, however, that the subjects of the recent cultural reviews, which form the basis of the Pathway to Change strategy, have been plaguing Defence for many years. Reform undertaken since the 1994 report, including reform to the inquiry, investigation and review system, has failed to provide a comprehensive solution to the problem of sexual harassment in the ADF.

Burton report 1996 (Women in the ADF)

Following the Senate report 1994 into the nature and incidence of sexual harassment in the ADF, the Minister instigated these two studies into women in the ADF. Dr Clare Burton was commissioned by the ADF to complete the two studies – into the cultural, social and institutional barriers impeding merit-based progression of women in the ADF, and into the reasons why more women were not making the ADF a long-term career. The report is available online at:

<http://www.defence.gov.au/fr/reports/womenadf.pdf>

The Burton report was directed at cultural change, and did not make any specific recommendations relating to inquiry, investigation and review. However, the report resonates with more recent reviews currently under consideration, including the Pathways to Change strategy and the equity and diversity recommendations in the Part Three report of the *HMAS Success* CDF Commission of Inquiry.

Burton made recommendations in relation to the training and accountability of leaders in Defence to eliminate discrimination and harassment in their units. Leadership accountability and management training are elements of the recent suite of cultural reviews being implemented through the Pathways to Change process. Inquiry, investigation and review mechanisms in Defence need to support leadership accountability.

Quinn report 1996 (Sexual harassment in the ADF)

This survey was conducted by MAJ Kathryn Quinn as part of the response to the Senate report 1994. It responded to the recommendation that the ADF monitor the incidence of sexual harassment. The report is available online at:

<http://www.defence.gov.au/fr/reports/SHinADF.pdf>

This report detailed a survey of ADF members as to the actual and perceived levels of sexual harassment, and the degree to which the ADF was effective in dealing with it. The recommendations are not of any particular relevance to the current project.

Abadee report 1997 (A study into the judicial system and under the DFDA)

This report was commissioned by CDF in November 1995, to conduct a study into the arrangements for the conduct of military trials. The intention was to determine whether the arrangements satisfied modern tests of judicial independence and impartiality.

Most of the recommendations dealt with the trial process, including prosecution policy and the role and control of Defence Force Magistrates. In that sense, the report is largely irrelevant to the current project, which, in relation to military discipline, is focused on investigation and review processes. That said, a number of the comments and recommendations in the Abadee report resonate with more recent reviews of other aspects of military justice, and with the responses that were received to the questionnaire and survey.

The Abadee report recommended that the standard of military justice should not vary according to whether it was operating in peace or war. This resonates with one of the fundamental principles underlying the system of inquiry, investigation and review – it must operate effectively both in Australia and in theatre.

Grey report 1998 (Report of the review into policies and practices to deal with sexual harassment and sexual offences at ADFA)

The Grey report was commissioned following a number of incidents of bastardisation, sexual harassment and assault at the Defence Academy. The Grey report looked at bastardisation and sexual harassment at ADFA during the 1980s and early 1990s. It

also examined relevant cultural, structural and management issues at ADFA. It found evidence of bastardisation, and a failure by ADFA staff to recognise and prevent it. The report is available online at:

<http://www.defence.gov.au/fr/reports/ADFAreport.pdf>

The Grey report made 97 recommendations, including in relation to:

- cultural change at ADFA
- induction processes
- the ability to deal with sexual offences
- strategies to deal with complainants, respondents and witnesses of unacceptable sexual behaviour
- ADFA staffing

The recommendations resonate quite clearly with those of more recent reviews, in particular the suite of cultural reviews leading to the Pathways to Change strategy and the Part Three Report of the *HMAS Success* CDF Commission of Inquiry. A number of observations and recommendations remain of interest in the context of this project. Of particular note are:

- the idea that commanders retain the power (and indeed the responsibility) to take various actions even where an alleged sexual offence has been referred externally for investigation
- the idea that commanders may initiate action as a result of sexual harassment even where this is not the complainant's wish
- matters relating to data and document management, and the role and resourcing of Service Police
- protection of individuals from victimisation or penalty when they are involved in an inquiry or complaint
- a recommendation to design an investigative mechanism to enable management to deal with minor matters with an emphasis on informality, simplicity and the resolution of the incident at the lowest possible level

Defence Force Ombudsman's report 1998 (DFO's own motion investigation into how the ADF responds to allegations of serious incidents and offences – review of practices and procedures)

On 14 July 1995, the CDF requested that the Defence Force Ombudsman (DFO) conduct an 'own motion' investigation into matters surrounding allegations arising from an incident at a Defence base. The central element of the incident was an allegation of sexual assault. In particular, CDF was interested in obtaining DFO's recommendations on what lessons might be learnt for the handling of such investigations in the future, and what administrative measures and/or management processes might need to be put in place in the ADF. The approach was to focus on the systemic issues arising from the way the ADF responds to serious incidents and

offences, particularly sexual offences, through the review of a number of ADF investigations of serious incidents. The report is available online at:

<http://www.ombudsman.gov.au/reports/investigation/1998>

The main themes dealt with in the DFO's report were:

- powers of statutory inquiries
- inquiry policy guidance
- choice of inquiry type
- alternative dispute resolution
- data collection on complaints of unacceptable behaviour
- trend analysis of DFDA investigations and D(I)R inquiries
- informal investigations
- the appropriateness of 'preliminary inquiries' and associated accountability requirements
- choice of inquiry officers
- procedural fairness and rights of review in inquiries
- informing members of outcomes that affect them

It can be seen that many of the themes considered in the DFO's report remain relevant in this project. The DFO's recommendations moved the ADF away from informal fact finding in relation to complaints and towards formal inquiries, with significant procedural requirements associated with conflict of interest and natural justice. This appears to have occurred without reference to the associated delay in making decisions on these matters – a subject of considerable criticism in more recent inquiries. It could be argued that many of the matters criticised in the Part Three Report of the HMAS *Success* CDF Commission of Inquiry had their genesis in the DFO's report. There is no distinction in the report between the use of inquiries in relation to serious incidents and offences, as opposed to relatively minor workplace incidents. Some of the recommendations about sexual offences actually run counter to the more temperate approach taken in the Grey report, which specifically suggested the development of an informal mechanism for investigating minor non-criminal matters.

Joint Standing Committee report 1999 (Military Justice procedures in the ADF, Joint Standing Committee on Foreign Affairs, Defence and Trade)

The issue of Australia's military justice system was referred to the Committee by the Senate in 1997. The terms of reference authorised the Committee to examine the adequateness and appropriateness of the existing legislative framework and procedures for the conduct of military inquiries and ADF disciplinary processes. The report is available online at:

http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=jfadt/military/reptindx.htm

The Committee identified three distinct components of the military justice system – military inquiries, military discipline, and administrative action. The Committee sought to examine the existing legislation, policies and framework of the system of military justice employed by the ADF and to evaluate their effectiveness and relevance in practice. The Committee's views drew heavily on the DFO's Report 1998, in particular in relation to moving towards a more formal inquiry system (rather than the use of preliminary and informal inquiries). The Committee's main concerns with informal processes were the potential to avoid procedural fairness and the potential to have inadequate documentation of inquiries. The Committee was very concerned with inquiry processes in relation to accidental deaths of ADF members, which may have coloured some of its more general recommendations about administrative inquiries.

The themes covered by the Committee's recommendations included:

- General Courts of Inquiry (including in relation to accidental deaths of ADF members)
- engagement with the coroner in the case of ADF deaths
- impartiality of inquiry officers
- inquiry policy guidance
- legal review of inquiry terms of reference
- powers of administrative inquiries
- procedural fairness in the course of an inquiry (including preliminary inquiries)
- provision of inquiry reports to next of kin
- legal representation before Boards of Inquiry
- informal / preliminary inquiries
- capturing the costs of the military justice system
- use of adverse administrative action in contrast to discipline processes
- separation of initiating and imposing authorities in decision-making

ANAO Report 1999 (Audit Report No 46, Redress of Grievances in the Australian Defence Force)

This performance audit was conducted to ascertain whether the ADF redress of grievance system could be refined to improve the efficiency and timeliness of processing complaints while preserving equity and transparency. The ANAO report concluded that the redress of grievance system contained various inefficiencies that detracted from its cost-effectiveness, both from the viewpoint of the ADF and individual members. The report is available online at:

<http://www.anao.gov.au/Publications/Audit-Reports/1998-1999/Redress-of-Grievances-in-the-Australian-Defence-Force>

The ANAO found that the redress of grievance system was clearly time-consuming and resource intensive. Even where redress is granted, it has sometimes been so long after the event that the member is not fully satisfied with the result. The length of time taken also causes significant distraction to members, their peers and supervisors. The length of time taken can also lead to the perception that a complaint is not being taken seriously. The ANAO pointed to a number of other problems with the redress of grievance process, including a lack of transparency, a lack of training for those involved, and staffing levels at Complaints Resolution Agency.

The ANAO report made a number of recommendations to improve the ROG system. It proposed a system with the following essential features:

- All reasonable administrative solutions would be considered before a complaint was processed as a formal grievance.
- Once accepted, and if unable to be resolved by a member's CO, it would be referred to an appropriate officer with the delegated responsibility for review and resolution.
- The targeted review would be the only formal internal review of the grievance. A member who was dissatisfied with the outcome could apply to the Defence Force Ombudsman.
- Commanding officers would only deal with grievances about decisions they had authority to amend, and where they had no apparent conflict of interest.
- The command system would have the opportunity and impetus to resolve members' complaints before they are processed as formal grievances.
- CDF and the Service Chiefs would become formally involved only if it were appropriate for the matter to be addressed at that level, although they would also retain authority to intervene in any grievance if they wished.

The ANAO argued that this approach would deliver improvements in the performance of the redress system and lead to earlier resolution of complaints.

The ANAO's recommendations were broadly agreed by Defence. The Defence database in relation to implementation of ANAO recommendations indicates that the agreed recommendations were all implemented by 1 June 2001. It is not clear how these recommendations were implemented, as the necessary amendment to the Defence Force Regulations never occurred.

The ANAO's observations and recommendations in relation to the redress of grievance system remain relevant to the current project. The observations on delay and complexity in the redress of grievance system have been repeated in more recent reviews. The ANAO's recommendations for a re-designed redress of grievance system will be considered as part of Stage B of this project.

Review of ROG system 2000 (Defence Personnel Executive review of the Australian Defence Force Redress of Grievance System)

Following the ANAO audit, there was a view within both Defence and the Defence Force Ombudsman's office that a more fundamental review of the ROG system than that undertaken by the ANAO was warranted. This review was conducted internally within Defence, with representation from the Defence Force Ombudsman's office, with the aim examining the ROG system and identifying the structural, resource and cultural impediments to its effective and efficient operation. The intention was to propose an ideal ROG system for the ADF, which supported the command function in the contemporary environment.

The changes to the ROG system proposed in this review were not as radical as those recommended in the ANAO audit. Like the ANAO audit, they included removing the CDF level of ROG review, and ensuring that where a CO did not have the power to resolve a ROG it was dealt with at first instance by an appropriate redress delegate. Other recommendations related to excluding certain decisions from the ROG jurisdiction. The proposed model retained a much greater degree of command involvement than the model recommended by the ANAO.

While a number of the recommendations are reflected in the current ROG system, the model proposed in this review was not adopted in full.

Joint Standing Committee report 2001 (Joint Standing Committee on Foreign Affairs, Defence and Trade, *Rough Justice? An investigation into allegations of Brutality in the Army's Parachute Battalion*)

This report was prepared in the context of an examination of Defence's Annual Report. The reporting of military justice and equity issues was one of several areas that the Committee wished to examine. Concurrent with the Committee's plan to begin this general examination, disturbing public allegations arose of brutality and 'rough justice' within the army's parachute battalion (3 RAR). The Committee decided that its generalised examination of Defence's reporting on military justice could not ignore the allegations relating to 3 RAR. The Committee's greatest concern was that the 3 RAR allegations served to highlight an apparent lack of transparency in military justice proceedings. The Committee's report is available online at:

http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=jfadt/dod_rept/mjindex.htm

Some of the Committee's recommendations remain relevant to the current project. For example, the Committee recommended that Army establish a pool of skilled investigators, which is relevant in the context of centralised and co-ordinated inquiry, investigation and review structures.

Burchett report 2001 (Report of an inquiry into military justice in the ADF)

The Burchett inquiry was also appointed following the events in 3 RAR. An investigation into a Private's allegation of assault uncovered previous complaints and allegations of mistreatment that had been investigated within 3 RAR. 15 Service

Police were ultimately assigned to investigate the 3 RAR incidents. A number of charges were eventually laid. It appeared as though the assaults and mistreatment were engaged in as a means of disciplining subordinates. One purpose of the Burchett inquiry was to determine whether there was any evidence of a culture of systemic avoidance of due disciplinary processes, including the use of illegal punishments. The report is available on the Defence Restricted Network at:

<http://intranet.defence.gov.au/home/documents/departmental/miscellaneous/burchett.htm>

Themes covered in the Burchett report included:

- the discipline officer scheme
- the nature and utility of punishments under the DFDA
- delays in commencing and reviewing summary and other trials
- administrative sanctions
- equity and diversity
- unequal treatment and consistency of punishments
- feedback to victims and complainants
- access to legal advice
- effects of integrated environments on discipline system
- DFDA investigations
- D(I)R investigations
- establishment of DMP
- avenues of complaint
- applicability of Whistleblower scheme to military justice
- procedural fairness in exercises of the command prerogative
- appointment of a military inspector-general to provide scrutiny of the military justice system independent of the chain of command

The Burchett report was the impetus for a number of changes in inquiry, investigation and review processes over the following years. For example, creation of the office of IGADF was, in part, a response to the Burchett report. Procedural fairness requirements in ADFP 06.1.3 *Guide to Administrative Decision Making* were introduced to deal with procedural fairness and the command prerogative, as discussed in the Burchett report. Creation of the office of DMP was a result of the Burchett report – it had previously been rejected following the DFO's report 1998.

Some of the Burchett report's observations run counter to more recent reviews. In particular, the observations in relation to procedural fairness and the command prerogative is directly contrary to the observations made in the Part Three Report of the HMAS *Success* CDF Commission of Inquiry about the power of commanders to

make decisions without providing procedural fairness. However, a number of the Burchett report observations in relation to the discipline system resonate with the problems identified with the current system of inquiry, investigation and review. They also resonate more broadly with aspects of the Pathways to Change program and HMAS *Success* Part Three.

Burchett observed that failures to correctly apply disciplinary law, and the tendency to use illegal methods of discipline were, in part, based on real or perceived difficulties or disadvantages with the lawful method of discipline. He noted that a lack of familiarity with the DFDA, and a lack of sufficient training to use it efficiently and effectively, was a significant disincentive to taking formal disciplinary action. Burchett observed that this could result in illegal action being substituted for legal action under the DFDA. He drew attention to the increasing complexity of the legal requirements applicable to the ADF. He pointed out that the complexity and other problems associated with summary proceedings had led to some charges not being brought when they should have been, and to some persons being punished unofficially. He contrasted this with the discipline officer scheme, which was relatively quick and informal, and avoids indiscipline through a failure to prosecute minor cases where more formal proceedings would be seen as troublesome to administer and too harsh in ultimate consequence. He suggested that significant delays were a major cause of disrespect for any system of law, and also reduced the disciplinary value of a charge under the DFDA.

These observations resonate with current concerns about inquiry, investigation and review structures in Defence. There are significant concerns that they are too slow and too complex. As such, there is a real risk that some matters are being ignored as there is a perception that dealing with them through the current system is too difficult. Observations in the HMAS *Success* Part Three Report included that command has been disempowered by the current complex processes, to the extent that commanders are afraid to make necessary decisions. It also resonates with the focus on leadership in the Pathway to Change strategy – making these systems easier to use and more supportive of decision-making means that line managers and commanders are able to lead better. The importance of leadership as a means to prevent and address behaviour and conduct issues was considered in the Burton report 1996.

One particularly interesting observation in the Burchett report is that changes in disciplinary law had not kept pace with structural changes – that is, it was not sufficiently effective in an integrated environment. This remains a concern in relation to inquiry, investigation and review processes, and an important aim of the current project is to ensure that the processes developed can operate effectively in an integrated environment.

Acumen Alliance audit 2003 (The Defence Legal Service Board of Inquiry Management Audit)

Acumen Alliance was engaged by the Defence Legal Service to undertake a management audit into Board of Inquiry processes. The object was to identify, assess and validate the practices and processes which facilitate efficient and

effective Boards of Inquiry. The audit focused on policy, governance, risk and structure.

Overall, the audit concluded that the Board of Inquiry process was sound, serving the purpose for which it was created. The audit noted a number of issues associated with appointments, monitoring, guidance and support.

The recommendations from this audit have limited relevance to the project, as Boards of Inquiry have been largely replaced by CDF Commissions of Inquiry, managed directly through the CDF COI directorate in CDF's office. However, a number of the audit's observations remain relevant to all higher level administrative inquiries in Defence.

The audit concluded that the primary factors influencing effective and efficient Board performance are:

- quality of planning / scoping exercise
- skill mix of Board members
- performance monitoring by the appointing authority
- capacity to contain an inquiry within the confines of its terms of reference
- manner in which potentially affected parties are managed

The audit emphasised that a Board of Inquiry is not a judicial process or trial. The appointing authority is accountable for framing the Board's investigation and its outcomes, while the Board is accountable for conducting the investigation within that frame. The audit also made some valuable comments about the availability of legal representation in Boards of Inquiry, and tests for determining whether an individual is a potentially affected person.

Commonwealth Ombudsman's report 2005 (Review of the ADF Redress of Grievance System, a Joint Report by the Department of Defence and the Defence Force Ombudsman)

The review was undertaken jointly by Defence and the Commonwealth Ombudsman. It sought to improve complaint handling in Defence through building on existing complaint handling systems available to ADF members, and refining the relationships that Defence has with external complaint handling agencies. As part of this, the review measured the performance of the ROG system with respect to timeliness and found that while there has been significant improvement in recent years, the overall responsiveness is poor. A significant issue identified by the review was that many recommendations of previous reviews were not implemented, or were only partially implemented. Given this, many of the recommendations of the review were repetitive of the recommendations of previous reviews.

The report is available online at:

http://www.ombudsman.gov.au/files/investigation_2005_01.pdf

The review recognised that between 1997 and 2004, new complaint-handling mechanisms were made available to the ADF, including the Defence Equity Organisation (1997), Complaint Resolution Agency (1997), the Army Fair Go Hotline (2001), the Defence Whistleblower Scheme (2002), and Inspector-General ADF (2003). The review noted that this rapid increase in complaint avenues vastly added to the complexity of managing and administering complaints in Defence. It found that very few complainants and managers appear to understand all of these avenues, and that many of these processes have the mandate to examine similar issues. This myriad of systems has grown in a piecemeal and ad hoc fashion, and is not only complex and somewhat bewildering to the user, but it must also result in less than optimal use of resources and inefficiencies. Additionally, despite the products and enterprises of these Defence areas being similar or complementary, the review found that there was no shared database of information nor overarching policy that explains to potential complainants which mechanisms are best suited to resolving their grievance.

A key recommendation identified by the review that is relevant to the Re-thinking Review includes that the above complaint-handling mechanisms should be managed centrally with a view to ensuring that their operations are complementary, including co-locating where feasible. The then Complaint Resolution Agency should be given the clear authority to be the driving force and 'centre of excellence' in complaint handling/resolution and neutral evaluation for Defence. The review also identified that many ADF personnel conducting administrative investigations in Defence have received little training.

Senate Committee report 2005 (Senate Foreign Affairs, Defence and Trade References Committee, The effectiveness of Australia's military justice system)

The Senate referred this matter to the Committee in October 2003. The Committee noted in its report that, despite several attempts to reform the military justice system, ADF personnel continued to operate under a system that, for too many, is seemingly incapable of effectively addressing its own weaknesses. The report referred to flawed investigations, prosecutions, tribunal structures and administrative procedures. The report concluded that a decade of change had not provided the broad-based change required to protect the rights of Service personnel. It considered that major change was required to ensure independence and impartiality in the military justice system. The report is available online at:

http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=fadt_ctte/completed_inquiries/2004-07/miljustice/index.htm

A number of the Senate Committee's recommendations are relevant to the current project. For example:

- recommendations in relation to the ADF's investigative function, including a recommendation to conduct a tri-service audit of current military police staffing, equipment, training and resources, together with a scoping exercise to examine the benefit of creating a tri-service criminal investigation unit

- recommendations in relation to protection of those reporting wrongdoing from reprisals
- recommendations in relation to the Quick Assessments, administrative inquiries, and their relationship to each other
- recommendations in relation to an external review and inquiry body (an ADF Administrative Review Board), including a recommendation that all notifiable incidents be referred to the ADFARB for investigation / inquiry
- recommendations about clearing backlogs associated with the redress of grievance system

The Senate Committee's report was particularly focused on the independence and impartiality of inquiry officers and investigators, as well as decision-makers. Implementation of the accepted recommendations further complicated inquiry processes through the creation of more rules and procedures, without regard to whether they are appropriate in relatively simple inquiries.

Investigative Capability audit 2006 (Report of the Audit of the ADF Investigative Capability)

This audit was conducted, subsequent to the Senate Committee's report 2005, to identify reform measures required to provide the ADF with an effective and efficient investigative capability. The audit found that the ADF investigative capability was in serious decline and that remediation would take no less than five years. It also found that the capacity of the Service Police in each Service to undertake a general, 'garrison' policing role has virtually ceased to exist and that this had implications for the prevention and detection of Service-related offences and ultimately for the effectiveness and success of Service Police investigators.

The principal deficiencies identified in Service Police investigations were untimeliness and inferior quality briefs of evidence. Other perceived problems included the less-than-impartial pursuit by Service Police of alleged offenders, a focus on finding guilt rather than simply inquiring thoroughly and collecting material for possible evidentiary purposes, and a lack of investigation experience, capacity and skill.

The major change to the ADF's investigative processes following this audit was the establishment of ADFIS. The audit also made recommendations regarding ADF culture with respect to Service Police, investigative standards in Defence, appropriate matters for Service Police investigators, Quick Assessment policy, notifiable incidents, training of investigators, and resources.

The audit remains a valuable resource for a number of reasons. The problems identified in the audit continue to resonate, notwithstanding the establishment of ADFIS. The audit also identified essential components of a service police investigation:

- independent and unfettered
- impartial

- conducted fairly and prudently in a manner consistent with authorised investigative policy
- investigations differ from an administrative inquiry by being concerned, from initiation, with the possibility of the commission of an offence under the DFDA or civilian criminal law
- cannot be bound by externally (eg by command) imposed time or resource constraints
- obstructing, hindering or otherwise delaying a service police investigation may result in disciplinary or criminal proceedings

A fundamental question addressed by the audit was ‘for whom do investigators work?’ This question was asked in the context of interference by commanders in investigations. The audit concluded that the emphasis was being placed on the needs of the command chain rather than on simply deciding what is the right thing to be done by the right people at the right time. This is a question that this project will need to consider, not only in the context of ADFIS and others conducting investigations to a criminal standard, but in the context of administrative inquiries and reviews.

Defence Force Ombudsman’s report 2007 (Defence Force Ombudsman’s own motion investigation – management of unacceptable behaviour complaints in the ADF)

This investigation was initiated by the DFO to form a view about the suitability and effectiveness of processes laid out in DI(G) PERS 35-3 *Management and reporting of unacceptable behaviour*. The DFO sought to determine whether complaints about unacceptable behaviour were being dealt with in accordance with the Instruction, and to identify opportunities for improving those procedures. The report is available online at:

<http://www.ombudsman.gov.au/reports/investigation/2007>

The DFO’s report does not make recommendations of any specific relevance to the system of inquiry, investigation and review. However, some of the observations resonate with the problems identified with the system. For example, the report states that ‘commanders and managers reported that complaint management represented a significant administrative burden’. The DFO also concluded that ‘a substantial proportion of ADF members are concerned about the fairness of the complaint-handling process’. The DFO noted that some participants in focus groups expressed concern that a complaint could become a seemingly endless process, and recommended that there be a time limit on applying for review when ADF members are dissatisfied with the outcome of an investigation.

Another significant observation was that ‘managers fear making a “career-ending move” when managing a complaint’. The DFO recommended that it be reinforced that complaint resolution is a day to day management responsibility.

Street / Fisher report 2008 (Report of the Independent Review on the Health of the reformed military justice system)

This inquiry was commissioned in order to meet the commitment made in response to the Senate Committee's report 2005, to commission regular independent reviews of the health of the military justice system. On 14 April 2008 Sir Lawrence Street and Air Marshal Les Fisher commenced the first of these independent reviews. The Street / Fisher report is available online at:

<http://www.defence.gov.au/header/publications.htm#S>

Many of the recommendations dealt with the discipline system, and in particular the summary trial and military court processes. These are considered to be beyond the scope of this project. However, several recommendations pertain to the inquiry, investigation and review system. The subjects they dealt with include:

- the redress of grievance system, including in relation to exploitation of the system by disaffected people
- data collection systems
- powers of CDF Commissions of Inquiry and Inquiry Officer inquiries
- a discretionary compensation mechanism specific to the ADF

Table 1. Previous inquiry recommendations

	Recommendation	Agreement	Relevance
Senate Committee report 1994 (42 recommendations)			
1.	<p>Recommendation 1. The Committee recommends that the definition of sexual harassment under the Sex Discrimination Act be refined to reflect more clearly</p> <ul style="list-style-type: none"> the hierarchy of complaints; the advantage, where possible, of the complainant informing the alleged harasser that his or her behaviour is offensive; the appropriate mechanisms and legal sanctions for the different degrees of seriousness of the unlawful behaviour. 		
2.	<p>Recommendation 2. The Committee recommends that the Human Rights and Equal Opportunity Commission should investigate the proposal that the requirement under the Sex Discrimination Act for employers to take all “reasonable steps” to prevent an employee or agent from engaging in unlawful acts of sexual harassment should specify that, as one such “reasonable step”, the employer should provide support, through an appropriate off-line, internal unit in the organisation (such as Sexual Harassment Contact officers) or, facilitate access to an external agency (such as the Sex Discrimination Commissioner), for the person who feels harassed to bring to the attention of an alleged harasser (directly or indirectly) that the person’s behaviour is offensive, intimidating or humiliating.</p> <p>Such action should be seen as different from a formal complaint alleging sexual harassment and provide an opportunity for both parties to clarify the situation and be made aware of the possible consequences if offensive behaviour continues. The purpose of the measure is to assist in resolving genuine</p>		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
	misunderstandings before they become a major difficulty in the work relationship, particularly in situations where the person who feels harassed feels unable to prevent the offending behaviour by his or her own action alone. The measure would also simplify the resolution of a subsequent complaint, should such a complaint be formally lodged.		
3	Recommendation 3. The Committee recommends that Navy pay greater attention to the in-port activities of its personnel to gain the maximum benefit from these visits while minimising the potential for unacceptable behaviour. The Committee recommends that ships' officers, in conjunction with the Australian Defence or diplomatic representatives in the countries to be visited, identify possible suitable cultural, sporting and social in-port activities and make the arrangements for interested crew members to participate. This function could best be undertaken by officers, such as doctors and chaplains, who are responsible for the health and well-being of the crew.		
4.	Recommendation 4. The Committee recommends that care be taken to ensure that the choice of legal counsel appointed by Navy, Army and Air Force to assist with multiple inquiries or legal proceedings into the same or related matters does not give rise to perceptions of possible conflict of interest		
5.	Recommendation 5. The Committee recommends that the Defence Instructions covering Inquiries into Matters Affecting the Defence Force be amended to include a requirement, in the case of an inquiry into personnel matters such as sexual harassment, to inform all witnesses, including those who are not directly the subject of recommendations, of their status at the conclusion of the inquiry. Consideration should also be given to advising all those directly involved in an inquiry of the outcome of any action taken pursuant to the inquiry as soon as possible after decisions on the implementation of the inquiry's recommendations have been made.		
6.	Recommendation 6. The Committee recommends that supervisors be clearly instructed and required		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
	to record in writing whether a performance assessment of an individual is based on a short period providing limited opportunities for observation of the performance of that individual.		
7.	Recommendation 7. The Committee recommends that a special effort be made to ensure that all qualified entry personnel be given sufficient information to understand the regulations governing public employment in the Defence Force and Navy's way of applying those regulations to its organisation.		
8.	Recommendation 8. The Committee recommends that Navy continue, through the Good Working Relationships program, to examine and improve all aspects of work relationships within and between the various functional groups in the Navy. In particular the Committee recommends that further detailed studies be carried out, with the assistance of expert consultants, into the impact of group dynamics on the individuals in the Navy, and on the organisation more generally, with a view to harnessing more effectively the human resources available to achieve higher standards of performance and behaviour.		
9.	Recommendation 9. The Committee recommends that in all its training and education courses on gender awareness, Navy stresses the responsibility of all individuals involved in incidents of unacceptable behaviour and sexual harassment. While it may not always be possible for the person who feels offended to tell the offender directly, the person who objects to the behaviour has a responsibility, especially if the offensive behaviour could also be interpreted as jocular or light-hearted, to tell at least one other person about it, preferably someone well placed to support the person who feels offended to resolve the situation before it deteriorates further. To facilitate such communication the identity of all Sexual Harassment Contact officers as the personnel best equipped to offer support should be readily accessible to all personnel; moreover all personnel should be clearly advised that they may approach the Sexual Harassment contact officer in their own unit or in any other unit or division		
10.	Recommendation 10. The Committee recommends that the Navy:		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
	<ul style="list-style-type: none"> re-examine the adequacy of the nine week qualified entry officers' course and the reserve officers orientation course and consider extending the courses to a full six months; consider setting a minimum recruiting period to allow for longer training; give new medical recruits the opportunity to take day and weekly running trips before taking up a longer sea posting; wherever possible give new medical recruits a sufficient period on shore before posting to sea; made a determined effort to post medical officers to ships in time for them to take part in the work-up of the ship before deployment; identify specific naval tasks that can be effectively undertaken by medical and dental officers at sea in addition to their professional medical duties to assist them in being accepted as fully integrated members of the team; and Ensure that the qualified entry officers in both the Reserve and the Permanent Naval Force are clearly informed about these additional tasks and are adequately equipped, during their initial training, to carry them out. 		
11.	Recommendation 11. The Committee recommends that the provision of medical services on board naval vessels be reviewed, with particular focus on the benefits to be gained from making sea postings available to registered Navy nurses. The review should include an evaluation of the benefits of replacing Petty Officer Medic positions with fully qualified nursing staff, as well as the feasibility of nursing staff, in certain circumstances, being appointed to replace medical officers.		
12.	Recommendation 12. The Committee recommends that an in-depth review be conducted of all		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
	positions at sea with the objective of more clearly identifying the personal characteristics, skills and aptitudes that are considered essential for service at sea. The review should include identifying minimum physical requirements including strength and flexibility, and characteristics such as resilience to stress, adaptability, and teamwork that are appropriate for the conditions and for the technologies actually in use today.		
13.	Recommendation 13. The Committee recommends that all potential new entrants to the Navy, including direct entry specialists, be given an opportunity to fully discuss and evaluate the difficult and demanding aspects of service, especially at sea, before making a firm commitment to the Navy.		
14.	Recommendation 14. The Committee recommends that a review of the management of the RAN's Tactical Electronic Warfare Support Section (RANTEWSS) be undertaken by an independent investigator, reporting directly to the Minister for Defence. In particular, the review should include: <ul style="list-style-type: none"> • the organisational structure of RANTEWSS; • the selection and training of personnel, including the gender balance required to provide equal opportunity for sea postings; • the establishment, pre-deployment preparation and tasking of tactical teams, including the provision of appropriate equipment and work aids; • the scope for integrating teams more effectively into ships' crews; and • the work practices and conditions of deployed teams. 		
15.	Recommendation 15. The Committee recommends that all personnel in the Navy are assessed in the routine appraisal process for their capacity to develop a good working relationship with other personnel,		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
	no matter what their gender or sexual preference.		
16.	<p>Recommendation 16. The Committee recommends that all personnel with supervisory and management responsibilities are assessed for:</p> <ul style="list-style-type: none"> • their skills in facilitating the integration of women into the Service; • their compliance with the requirement that all sexual harassment complaints are properly investigated; • their ability to assist in the effective resolution of sexual harassment allegations. <p>Where appropriate, the views of subordinates of the person being assessed should be taken into account in order to arrive at a reliable assessment of these matters.</p>		
17.	<p>Recommendation 17. The Committee recommends that the guidelines for performance appraisal be reviewed:</p> <ul style="list-style-type: none"> • to clarify the approach that supervisors should adopt to matters such as inadequacies in the assessee's training for tasks, short assessment periods and lack of opportunity for the assessee to demonstrate the particular skills for which he or she is being assessed; and • to ensure that all supervisors are consistent in their approach to performance appraisal. 		
18.	<p>Recommendation 18. The Committee recommends that a full-scale review of the Divisional System be carried out. The review should include in particular:</p> <ul style="list-style-type: none"> • the effectiveness of the Divisional System in meeting the needs of individuals and in meeting the 		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
	<p>needs of the organisation;</p> <ul style="list-style-type: none"> the impact of the 008 number on the operation of the Divisional System; the impact of the introduction of Navy quality Management on the operation of the Divisional system; and the adequacy of the training of Divisional Officers and Divisional Chiefs for their Divisional duties. 		
19.	<p>Recommendation 19. The Committee recommends that the potential for tensions between the principles underlying the Chain of Command and the more participatory problem solving principles of Navy Quality Management be openly and more fully addressed at every level of management training in the Navy.</p>		
20.	<p>Recommendation 20. The Committee recommends that:</p> <ul style="list-style-type: none"> the behaviour designated as gender harassment in para4d of Annex A to DI(G) PERS 35-3 be clearly identified as unacceptable behaviour between all personnel, including behaviour between members of the same gender; and the example in 4b of Annex A to DI(G) PERS 35-3 be reformulated to include derogatory references to both female and male physiological functions 		
21.	<p>Recommendation 21. The Committee recommends that more emphasis be given in the draft DI(G) PERS 35-3 to:</p> <ul style="list-style-type: none"> the value of seeking to resolve concerns about sexual harassment by the individuals involved and at an informal level; and 		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
	<ul style="list-style-type: none"> the support mechanisms available to the complainant. The guidance should make explicit reference to all the 008 numbers in the section headed “Avenues of Complaint”. The guidance should also be regularly supplemented by the service-wide circulation of up-to-date lists of Sexual Harassment Contact officers. 		
22.	Recommendation 22. The Committee recommends that the DI(G) PERS 35-3 be more detailed and specific in the guidance it gives on false allegations of sexual offences and sexual harassment. In particular the instruction should outline the procedures that are to be followed and the possible outcomes in the event that a false, malicious, vexatious or patently unfounded allegation is made.		
23.	Recommendation 23. The Committee recommends that, where a PERS1 or PR5 is disputed, the superior should see the supervisor responsible for drafting the report and the subordinate separately, before any attempt is made to resolve difference between the parties in a joint meeting.		
24.	<p>Recommendation 24. The Committee recommends that the Chief of Naval Staff review the censure of Captain Mole, taking into account the Committee’s view that:</p> <ul style="list-style-type: none"> Captain Mole should have been given an opportunity to respond to the specific details of the censure as finally issued by the Chief of Naval Staff; the censure carried additional weight because it was made public; and the severity of a censure at the Chief of Naval Staff level is out of proportion to any shortcomings in Captain Mole’s performance as Commanding Officer of the SWAN. 		
25.	Recommendation 25. The committee recommends that the review of Captain Mole’s censure should include a parallel review of his performance assessments since August 1992. Furthermore, the Committee recommends that any selection panel considering promotions where Captain Mole is a		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
	candidate should have this Committee's Report brought to its attention.		
26.	Recommendation 26. The Committee recommends that the censure for all other personnel involved in the SWAN incidents be reviewed in the light of the findings of this inquiry.		
27.	Recommendation 27. The Committee recommends that amendments to the Defence Force Disciplinary Act be considered to allow for alleged sexual offences involving only Australian military personnel that occur outside Australian territorial waters, including on board Australian vessels, to be tried in a civilian criminal court under the relevant law applying in the Jervis Bay Territory in Australia, having been investigated by the appropriate civilian police and prosecuting authorities.		
28.	Recommendation 28. The Committee recommends that: <ul style="list-style-type: none"> the 008 service should remain an integral component of Navy's strategy to eliminate sexual harassment; and protocols governing the operation of the 008 number be reviewed in the light of experience a year after the tabling of this report. 		
29.	Recommendation 29. The Committee recommends that in future, organisers at the Good Working Relationships seminars apportion appropriate time to the issue of homosexuality and the way in which the guidelines on unacceptable sexual behaviour apply.		
30.	Recommendation 30. The Committee Recommends that Navy devise a conflict resolution program drawing as appropriate on " <i>Resolving Conflict: Following the Light of Personal Behaviour</i> " as one useful model. Such a program should be used as an additional segment of the Good Working Relationships program to give practical advice to all personnel in the Navy for resolving the conflict associated with		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance				
	sexual harassment						
31.	Recommendation 31. The Committee recommends that, in developing the guidelines and training for a conflict resolution program as suggested in Recommendation Thirty, particular attention is given to the development of those skills and techniques which enable individuals subjected to sexual harassment to be more confident and effective in dealing with such harassment at the personal level.						
32.	Recommendation 32. The Committee recommends that Navy and the other Services ensure that Defence Instructions regarding policy changes affecting personnel are followed up and explained at divisional and unit meetings.						
33.	Recommendation 33. The Committee recommends that as new instructions are promulgated, care is taken to ensure that all terminology is gender neutral. The Committee further recommends that as far as possible existing instructions are revised to reflect the new situation.						
34.	Recommendation 34. The Committee recommends that all officers who are likely to be appointed as Divisional Officers should undertake through – career courses which cover issues of gender awareness and the referral and handling of complains of sexual harassment.						
35.	Recommendation 35. The Committee recommends that specific training be provided for staff in the recruitment and postings section of Navy's organisation to enhance their skills in the area of matching the person and the job.						
36.	Recommendation 36. The Committee recommends that Army, Air Force and particularly ADFA adopt an approach similar to that of Navy towards raising gender awareness and preventing unacceptable sexual behaviour from occurring.						
37.	Recommendation 37. The Committee recommends that an evaluation study of the impact of the Good						
	Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant

	Recommendation	Agreement	Relevance
	Working Relationships program be undertaken 3 years after implementation.		
38.	Recommendation 38. The Committee recommends that the Service Chiefs of Army and Air Force create an opportunity to deliver, in such a way that it reaches all personnel forcefully, their unequivocal and strong commitment to the elimination of sexual harassment from their respective Services.		
39.	<p>Recommendation 39. The Committee recommends that the ADF implement without delay the action plan submitted to the Committee on 4 February 1994. The emphasis at this stage of developing the program to eliminate sexual harassment from the ADF should be on service-wide education and on preventative rather than punitive measures. The committee considers that particular attention should be paid to the following aspects in the action plan:</p> <p><u>I Amendments to Defence instructions</u></p> <p>(a) Mixed-gender focus groups of ADF personnel should be used to gain a better insight into the views of ADF personnel on a hierarchy of unacceptable sexual behaviours, including sexual harassment, and the views of ADF personnel on the optimum way of resolving incidents of varying severity. The results of such focus groups should then be one element to consider when refining further the Defence Instructions on Unacceptable Sexual Behaviour. It remains a matter for the ADF leadership to determine with as much clarity as possible, where the boundaries of sexual behaviour in the ADF lie.</p> <p>(b) In addition, changes should be made to the current draft DI(G) PERS-35 on sexual harassment, as outlined in the Committee's Recommendations Twenty, Twenty-One and Twenty-Two.</p> <p>(c) DI(G) PERS-35 should be supplemented by a practical guide to all personnel (complainant, harasser, supervisor, observer) for dealing with instances of unacceptable sexual behaviour. The</p>		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
	<p>Committee's recommendation thirty gives more details about the guide.</p> <p><u>II Action to educate and raise awareness</u></p> <p>(a) Compulsory awareness raising seminars for all ADF personnel, including all senior ranks, should be developed and introduced as a matter of urgency. While written instructions are essential, they are not sufficient to ensure proper understanding and handling of sexual harassment by all personnel. The seminars are essential to enable all personnel to gain a clearer understanding of the problem and how to deal with it.</p> <p>(b) The ADF-wide awareness raising seminars should be supplemented by more specific training for any personnel who wish to develop skills and techniques for dealing with such harassment at the inter personal level.</p> <p>(c) Procedures should be put in place to ensure that course symbols, such as pilot course badges, in-house publications (both formal and informal) and training materials do not contain unacceptable sexual connotations.</p> <p><u>III Provision of alternative avenues of support</u></p> <p>An essential component of an effective sexual harassment policy is the ready availability of avenues of complaint other than through the chain of command.</p> <p>(a) A 008 confidential advisory service should be maintained. Consideration should be given to amalgamating the initial points of contact, so that a single 008 telephone number for all Service personnel replaces the existing 008/1800 numbers for Army, Navy and Air Force. It should be</p>		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
	<p>possible for callers to either talk directly to a counsellor or to leave a message at any time of the day or night. Every effort should be made to respond to any message left on the 008 number within 12 hours of the call being received. The service should continue to be widely publicised and reviewed in three years time. Any new staff appointed to the service should be appropriately trained.</p> <p>(b) Measures should be put in place to ensure that all other personnel, such as doctors, chaplains, social workers and psychologists who may also be used as an alternative avenue to receive and address complaints are fully aware of their responsibilities in relation to sexual harassment and undergo appropriate training to enable them to identify and assist personnel who may be at risk and to deal appropriately with incidents of sexual harassment that come to their attention.</p> <p>(c) The role of specialists such as doctors, chaplains, social workers and psychologists in assisting personnel to deal with harassment should be made clearly known to all personnel.</p> <p>(d) An external conflict resolution process should be introduced and made widely known and readily available to any personnel who consider they are being subjected to harassment and encounter difficulties in resolving their complaint directly at the unit level.</p> <p><u>IV The promotion of informal resolution of allegations of sexual harassment</u></p> <p>(a) The emphasis in dealing with allegations of sexual harassment should be on informal resolution of the complaint at the local level. Personnel who believe they are being subjected to sexual harassment should be encouraged and given support in resolving the conflict at a personal level.</p> <p>(b) If, however, a formal, internal complaint is proceeded with, the procedures followed and the mechanisms that are in place would give assurance to the complainant that the complaint is being</p>		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
	<p>fully and properly investigated.</p> <p>(c) If the internal investigation is not satisfactory to the complainant, or if the person harassed encounters difficulties in pursuing this course, information on all alternative options (eg. An approach to HREOC, or to the Defence Force Ombudsman) should be made readily available.</p> <p>(d) Recourse to courts martial for resolving complaints of sexual harassment should be regarded as a last resort, after other avenues for resolving the problem have been fully explored.</p> <p>(e) Assurances must be given at the highest level and monitored to ensure compliance, that there will be no retribution for making a legitimate complaint.</p> <p><u>V Improved procedures for the investigations of complaints</u></p> <p>Immediate attention must be given to overhauling the procedures and guidelines for the investigation of complaints to incorporate the following:</p> <p>(a) Investigation of sexual assault</p> <ul style="list-style-type: none"> • Allegations of sexual assault must be immediately referred to civilian police authorities for investigation. • Provisions should also be made for continuing liaison between the civilian investigating authorities, and the military particularly in relation to incidents outside Australian territorial waters pending the adoption of measures in the Committee's Recommendation Twenty-Seven. 		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance			
	<p>(b) Investigation of other sexual harassment allegations</p> <ul style="list-style-type: none"> • All personnel appointed to investigate incidents must have had appropriate training in the investigation of such complaints. • In all but exceptional cases, investigating officers should be appointed from outside the unit where the alleged incident occurred. • Investigating officers should not be personally acquainted with any of the parties involved in the incident. • All the Services should establish closer liaison with specialists in the investigation of allegations of sexual harassment, both in terms of training military personnel to conduct such investigations internally and to seek the assistance of civilian investigators in cases where suitable military investigators are not available. Where difficulties arise in appointing suitable military investigators from within the Service where the complaint has been made, the use of trained investigators from a Service other than the one where the complaint was made should also be considered. <p><u>VI Ensuring that supervising officers are accountable</u></p> <p>The performance appraisal forms of each Service should be revised so that the extent to which all personnel adhere to the guidelines on unacceptable sexual behaviour is assessed, including the extent to which senior officers carry out their responsibility to take appropriate action to investigate quickly and fairly any allegations of sexual harassment. Care should be taken to ensure that these assessments are given equal weight by, and are comparable across all the Services.</p>					
Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant

	Recommendation	Agreement	Relevance			
	<p><u>VII Clarifying organisational responsibility</u></p> <p>Steps should be taken urgently to establish clearly whether the ADF or the Department of Defence has the responsibility to ensure that proper sexual harassment policies and mechanisms are in place for handling sexual harassment allegations in establishments where both military and civilian personnel, including contract personnel, are employed.</p> <p><u>VIII Monitoring sexual harassment</u></p> <p>(a) Mechanisms should be established for an accurate and comprehensive on-going record of the number and kind of sexual harassment incidents occurring in the ADF. These mechanisms should be such as to enable valid comparisons to be made between the Services and between different units, including training units, within each Service. The records collected should clearly identify the nature of the incident, the action taken and the outcome.</p> <p>(b) The committee notes that, from the records currently available from the 008 numbers, there appears to be a significant difference in the kind of calls being received by the Navy and the kind of calls being registered in the other two Services. In particular, the level of incidents of general harassment in the Navy appears to be as high as that recorded for sexual harassment. All Services should ensure that general harassment as well as sexual harassment is identified and recorded. The categorisation of the calls should be standardised across all the Services.</p> <p>(c) All exit interview should specifically seek to establish whether the person has experienced sexual harassment, the extent and nature of any such harassment, and whether such harassment has played any part in the person's decision to leave the service. Comparative data on the difference at separation in the ranks and length of service between male and female personnel should be</p>					
Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant

	Recommendation	Agreement	Relevance
	<p>monitored.</p> <p>(d) The Services should conduct a survey similar to that conducted by Major Quinn in 1987 to provide data on women's perceptions of sexual harassment since the major policy changes on integration were introduced. A survey at this time would be a further useful benchmark for future evaluation of the programs now being put in place.</p> <p><u>IX Establishment of Advisory Committee</u></p> <p>The chain of command should continue to take full responsibility for the development, implementation and monitoring of ADF policy on sexual harassment. It is also essential that the services develop their own internal expertise in every aspect of the management of sexual harassment, including expertise in group dynamics and conflict resolution. However, there would be value in setting up an advisory Panel to meet periodically with the Defence Force Policy Committee to assist the ADF carry out this responsibility. The Federal Sex Discrimination Commissioner, the Defence Force Ombudsman, and the present consultants to Navy and the ADF on sexual harassment should be included on the Advisory Panel. In view of the many integrated civilian/military establishments, consideration should also be given to including a representative of the Merit Protection and Review Agency. The HQADF and single Service EEO Units and personnel providing the 008 services should, as a matter of course, participate in meetings with the Advisory Panel.</p>		
40.	Recommendation 40. The Committee recommends that the ADF report back to the Senate, one year after the Government's response to this Report, on the action taken by each of the Services and the Australian Defence Force Academy to eliminate sexual harassment from the Australian Defence Force.		
41.	Recommendation 41. The Committee recommends that the ADF develop further the ADF's guidelines		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
	on appropriate professional behaviour and inter-personal relations. Particular attention should be given to both the process of arriving at those standards and the process of promulgating them. The Navy's approach of conducting focus groups to identify issues, followed by service-wide seminars which encourage communication and open discussion of the issue of unacceptable sexual behaviour in the context of appropriate overall behavioural standards provides an effective model for dealing with sensitive and complex matters of this kind. Similar processes should be put in place by all the Services to address the wider issue of professional interpersonal conduct, including general and sexual harassment, and mechanisms but in place for eliminating harassment of any kind from the ADF.		
42.	Recommendation 42. The Committee endorses the principle of equal opportunity for women in the Australian Defence Force and recommends that high priority be accorded to removing, to the maximum extent possible, any remaining barriers to recruitment and promotion prospects for women in the Services. To achieve this, high priority and resources should be given to reviewing criteria for advancement in the services to reflect accurately the full range of complementary skills and attributes.		
Burton report 1996 (20 recommendations)¹			
1	Recommendation 1. That the ADF: (1) Create an Employment Equity (or Equal Employment Opportunity) Unit to develop an ADF-wide strategic, long-term planning process for the effective elimination of all forms of discrimination and		

¹ There was no Government response to this report. CDF provided comments at the beginning of the report: "The report acknowledges the significant progress made in gender integration in the ADF, particularly in relation to the elimination of sexual harassment. However, it also identifies that there is an equity problem and that there are barriers to women's full participation in the ADF. The ADF intends to fix these problems; time alone will not do it. The report notes difficulties in the area of attitudinal change. However, attitudes can change when exposed to new information, knowledge and experience. A Defence Force Equity Organisation is being established. Its charter is to ensure an ADF free from unlawful discrimination. This will require a significant amount of work and successful implementation will depend upon the commitment of all members."

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance			
	<p>harassment;</p> <p>(2) Develop general employment equity principles, standards and guidelines to apply across the Services; sufficiently developed to ensure compliance with anti-discrimination law and government EEO policy within each of the Services; and designed to highlight the ADF's aim of, on the one hand, developing gender-neutral employment standards, and, on the other, the elimination of unintentional, indirect and systemic forms of discrimination in Human Resource Management and related policies, procedures and practices;</p> <p>(3) Develop a clear framework document defining and explaining equity and equality, direct and indirect discrimination, what is meant by equitable treatment as distinct from preferential treatment and what affirmative action is and is not, with relevant illustrative material;</p> <p>(4) Undertake a review of all current Service EEO statements, policies and program documents to ensure consistency with the ADF position and the framework document;</p> <p>(5) Explore, through universities, the TAFE system and other training providers the availability of appropriate education and training programs for longer-term development and dissemination of theoretical and practical knowledge on anti-discrimination law and employment equity policies and issues;</p> <p>(6) Appoint civilian staff with expertise in the field to work closely with HQADF and personnel in each of the Services to initiate and coordinate the above activities; to provide rapid and effective skills transfer to personnel, selected on merit, at HQADF and from each of the services to advise on and guide employment equity planning;</p> <p>(7) Appoint civilian staff with expertise in the field to prepare the ADF for the broader employment equity focus on people of non-English speaking background, Aboriginal people and Torres Strait</p>					
Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant

	Recommendation	Agreement	Relevance
	Islanders and people with disabilities while maintaining the momentum for achieving gender integration.		
2.	Recommendation 2. That the ADF use this Report as a basis for a strategic planning process aimed at eliminating discriminatory policies and practices and at achieving gender integration.		
3.	Recommendation 3. That institutionalised commitment be achieved through meaningful expressions of ownership of the gender-integration agenda; that the ADF counter the prevailing view that gender integration is the result of political pressure, by widely and publicly acknowledging community and female members' expectations of it as an employment provider, by disseminating the facts of women's involvement and performance capacities in military roles, and by pointing to demographic patterns and technological imperatives which require the ADF to broaden its recruitment base to fulfil its role effectively and efficiently.		
4.	<p>Recommendation 4.</p> <p>(1) That all Commissioned and Senior Non-commissioned Officers, with the priority on the most senior Officers within the Defence Force, receive comprehensive and intensive briefings and training on their leadership responsibilities, with particular emphasis on the critical nature of their active commitment and support for the cultural changes required to achieve effective gender integration;</p> <p>(2) That the briefings and training comprehensively cover their role in the non-discriminatory implementation of policies and in the elimination of discriminatory procedures and practices; the legal and organisational frameworks within which these responsibilities are to be exercised; the importance of their assuming role model and mentor status.</p>		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
5.	<p>Recommendation 5.</p> <p>(1) That HQADF and each Service specify the nature of Employment Equity related positions, their main roles and key accountabilities;</p> <p>(2) That selection criteria be developed for such positions with people selected and appointed in accordance with the merit principle as defined in chapter 1 of this report;</p> <p>(3) That, until knowledge and understanding is more broadly distributed, no Employment Equity position or related position be filled for developmental purposes unless this be part of a training program where support and skills-transfer is adequately resourced and supervised.</p>		
6.	<p>Recommendation 6. That Employment Equity strategic planning and consultation be an integral component of the roles, functions, teams and committees set up to implement the recommendations of the Report Serving Australia and be an integral component of the deliberations of the Defence Personnel Committee, the Strategic Personnel Planning Group and the Personnel Policy Coordination Forum, should they or similar bodies be set up in line with the recommendations of the Report, Serving Australia.</p>		
7.	<p>Recommendation 7. That the performance reporting system be used as a vehicle through which commitment to organisational values and policies is built and as a means of signalling that progress in Equal Employment Opportunity is essential for achieving mission goals.</p>		
8.	<p>Recommendation 8.</p> <p>(1) That Chiefs of Staff be held accountable to the Chief of the Defence Force for ensuring Commanding Officers are making a difference to the climate and opportunities for women;</p> <p>(2) That leaders and Commanding Officers be held formally accountable for gender-integration</p>		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
	<p>progress through regular six monthly reports of achievements via the hierarchy to the Defence Personnel Committee;</p> <p>(3) That senior Officers, managers and supervisors be assessed through the performance reporting system on their contributions to eliminating discriminatory practices and on the positive role they play in the gender-integration process.</p>		
9.	<p>Recommendation Nine.</p> <p>(1) That Commanding Officers, having been adequately briefed, trained, provided with advisory and other support, and having had expectations of them clearly established, be held accountable for the elimination of discrimination and harassment in their units;</p> <p>(2) That ultimately, after phased-in management and supervisory education and training programs, Commanding Officers be held responsible for the following supervisory, management and training practices of their staff: (a) inappropriate differential treatment of men and women; (b) the conveying of directives negatively; (c) poor and inconsistent management of work/family issues; (d) lack of compliance with unacceptable behaviour guidelines; and (e) the incidence of sexual and gender harassment complaints;</p> <p>(3) That the ADF and each Service clarify for all members its expectations of supervisors' and managers' styles and methods of supervising and disciplining and provide guidance on the variations in them deemed appropriate for different settings.</p>		
10.	<p>Recommendation 10. That gender-integration principles and expected achievements be built into the strategies and goals of Defence Management Programs.</p>		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
11.	Recommendation 11. That comprehensive, multifaceted intervention plans be developed for units and categories of members where positive attitudes towards women in the military have been identified as particularly difficult to achieve.		
12.	Recommendation 12. (1) That a plan for consultation and communication with members on gender-integration issues be developed; (2) That it include single sex and mixed-sex focus group and workplace-based discussion on personnel-related matters in order that levels of comprehension of current policies, and effectiveness of education and training initiatives, can be assessed; and in order that areas in need of future action can be identified in 'off the record' contexts.		
13.	Recommendation 13. (1) That the ADF, in consultation with each of the Services, develop a set of guidelines and initiate focused action to ensure compliance with the indirect discrimination provisions of the Sex Discrimination Act; (2) That this Report's identification of existing indirectly discriminatory policies and practices (in chapter 5) - in particular those governing the career management system - form the basis for establishing the required redress and other measures to overcome potential future effects of past discriminatory policies and practices.		
14.	Recommendation 14. (1) That the ADF, with the assistance of expert advice, embark upon a systematic review of, and		
		Agreed	Agreed in part
		No response	Not agreed
		Relevant	Indirectly relevant
			Not relevant

	Recommendation	Agreement	Relevance
	<p>develop a policy framework for, the design and implementation of selection testing procedures and performance reporting and promotion systems, based on the principles of transparency, accountability, validity and reliability;</p> <p>(2) That a continuous review process of criteria and standards and their validation be developed as a component part of the ADF's strategic approach to the management of human resources.</p>		
15.	<p>Recommendation 15.</p> <p>(1) That the ADF and each of the Services, following intensive educative efforts and in consultation with women, determine the special initiatives to be developed to provide women with the necessary support to enhance their levels of comfort and feelings of belonging within the military setting;</p> <p>(2) That regular unit climate surveys be conducted, with particular reference to sexual and gender harassment, as one means of assessing the effects of good practice and of identifying areas where strong interventions are required;</p> <p>(3) That an audit of clothing and equipment be carried out in consultation with members to establish what remaining modifications need to occur; that, in the meantime, information on adaptations and alterations that can significantly enhance women's capacity and efficiency be widely disseminated.</p>		
16.	<p>Recommendation 16. That the ADF and each Service ensure that impediments to decision makers (including those advising on or making promotion decisions) having ready access to expert advice, valuable and relevant experience, and the diversity of perspective, including from women, required for sound decision making.</p>		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
17.	Recommendation 17. That the principles set out in chapter 6 of this Report, regarding work-family accommodations, form the basis for the development of a strategic approach to ensuring that appropriate facilities, terms and conditions and support are provided to members.		
18.	<p>Recommendation 18.</p> <p>(1) That a comprehensive database be maintained of personnel-related statistics;</p> <p>(2) That a gender breakdown of all relevant data be readily available for educative, monitoring and reporting purposes;</p> <p>(3) That the data be used to provide members, the public and the relevant Minister with the facts regarding women's and men's recruitment, occupational distribution, course participation patterns, posting patterns, promotion rates, career patterns, representation on decision making bodies, length of service, leave patterns and separation rates;</p> <p>(4) That a behavioural and social science perspective be introduced to broaden the current research perspectives and capacities within the Services;</p> <p>(5) That research results, in the form of data observations and findings, be used to clarify and modify approaches to gender integration and to overcome any problems associated with their implementation.</p>		
19.	Recommendation 19. That the ADF, through internal and external monitoring activities, maintain a comprehensive database on policy development, models of good practice and effective change strategies as they relate to gender integration, to ensure that problems are widely canvassed, and solutions disseminated, to avoid constant 'reinventing of the wheel'		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
20.	<p>Recommendation 20.</p> <p>(1) That regular internal and external reviews of progress made in gender integration be carried out;</p> <p>(2) That the Inspector-General's role include periodic reviews of the management of the gender-integration process;</p> <p>(3) That the Terms of Reference, role, composition and resourcing of the Defence Advisory Forum on Discrimination be altered to allow for meaningful review activity in order to extend the accountability of the ADF to the public for the provision of equitable employment opportunities and as a positive public relations measure;</p> <p>(4) That this Report and subsequent reports on gender-integration progress be made publicly available, including to military organisations in other countries in reciprocal fashion, as a significant symbol of commitment to cultural change and as a good faith measure.</p>		
Quinn report 1996 (3 recommendations)²			
1.	Recommendation 1. The ADF and the individual Services continue with policies that include awareness training; however more targeted interventions are needed to prevent and stop sexual Harassment.		
2.	Recommendation 2. The main findings from this study be widely disseminated and incorporated into training and intervention programs as a basis for action		

² There was no formal government response to this report. It was noted by the ADF that Major Quinn's survey provided a valuable core of information on which to base the development of further strategies for the elimination of harassment. CDF further stated that it provided a sound basis for the continued monitoring of the effect of those strategies.

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
3.	Recommendation 3. The ADF and the individual Services continue to monitor sexual harassment using the Sexual Experiences Questionnaire as the standard measuring instrument of incidence		
Abadee report 1997 (48 recommendations)³			
1.	Recommendation 1. The standard of military justice should not vary according to whether is a time of peace or war. Because the Defence Force must constantly train for war, there should be no different approach for the conduct of tribunals in peace time to those conducted in war, overseas or during a period of civil disorder in Australia.		
2.	Recommendation 2. There is a most powerful case for eliminating the multiple roles of the convening authority.		
3.	Recommendation 3. Prosecution guidelines similar to those in operation in the various States or the Commonwealth (with suitable modifications) should be introduced.		
4.	Recommendation 4. Careful consideration should be given to examining the question of the appointment of an 'independent' Director of Military Prosecutions upon a tri-service basis.		
5.	Recommendation 5. The matter of any such appointment, if at all, whether it should be tri-service, the role and duties of any Director and the matter of the responsibility of the prosecuting authority to any other authority and to whom should be dealt with any legislative change. At the same time the matter of whether the prosecutor should be organised as an independent unit under the Act should also be addressed.		

³ There was no government response to this report – the response to the recommendations was from the ADF directly.

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance					
6.	Recommendation 6. The present system of the JAG nominating officers to the JA's panel, appointing DFMs and recommending s.154(1)(a) reporting officers should be retained.							
7.	Recommendation 7. There should be no command or control (except of an administrative nature) exercised over JAs, DFMs and s.154(1)(a) reporting officers in the performance of their judicial duties. This would involve amendment to such provisions as AMR Reg 583 and even AMR Reg 585 (or their service equivalents, if any).							
8	Recommendation 8. On the assumption that by convention would continue to be a military officer, the JAA should remain under the command of the JAG.							
9.	Recommendation 9. There should be no reporting on JAs, DFMs and s.154(1)(a) reporting officers in respect of their judicial duties.							
10.	Recommendation 10. There should be a separate administrative authority in respect of non-judicial duties of the JAs, DFMs and s.154(1)(a) reporting officers and reporting on such duties by their respective 'Head of Corps'.							
11.	Recommendation 11. Duties of a judicial nature, including the appointment of JA or DFM to a particular trial be allocated to JAs, DFMs and s.154(1)(a) reporting officers by the JAG. This could be done through a Judge Advocate Administrator.							
12.	Recommendation 12. The JAA should be under command of and reported on by the JAG and the DGDLO.							
13.	Recommendation 13. Convening orders issued by convening authorities should include a request for the JAG to appoint a JA or DFM, or alternatively a statement (if it be the case) that a particular JA or DFM has been appointed by the JAG.							
		Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant

	Recommendation	Agreement	Relevance
14.	Recommendation 14. The subject of fixed tenure (for JAs, DFMs and s.154(1)(a) reporting officers) should be further considered. Whilst I do not consider it essential, the notion of fixed tenure (with a virtual right of extension) is not opposed. It may provide a means of ensuring that appointees perform duties and should not hold office for the sake of it, whilst remaining inactive or unavailable for one reason or another.		
15.	Recommendation 15. Subject to the constraints, inter alia, discussed, I do not see why those who are appointed as JAs, DFMs and s.154(1)(a) reporting officers should not generally be able to perform duties of a non-judicial or duties not inconsistent with the performance of the type of judicial duties or functions that they may be called upon to perform from time to time.		
16.	Recommendation 16. Consideration should be given to the establishment of the equivalent of a Court Administration Unit, independent of the convening authority and outside his chain of command or independent tri-service officer to perform the function of selecting members for a court martial. (This is said upon the assumption that there is not strong support for the U.K. scheme of a Court Administration officer who has taken over many of the convening authority's powers).		
17	Recommendation 17. If the present system [of convening authorities] is to be retained, then: <ul style="list-style-type: none"> convening authority should wherever possible appoint, subject to service exigencies, persons from outside his command and at least outside the accused's unit. The matter of some members outside the convening authority's command being included is likewise a matter that could be considered. such selection should be from a 'large pool' and as a desirable objective, as random as possible. The matter of the tri-service pool situation could even be considered for the few courts martial in fact held. 		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
18	Recommendation 18. Reviews of court martial proceedings and DFM trials should be conducted by an authority other than the convening authority.		
19	Recommendation 19. There should be a prohibition upon consideration of an Officer's performance as a member of a court martial being used determine qualifications for promotion or rate of pay or appointment. Further, that the officer reporting on efficiency of the president or members should not take into account the performance of duties of the president or members of any court martial. Section 193 protects such a member during performance of his/her duties as a member. There is a case for implementing the spirit of such a section generally.		
20	Recommendation 20. Whilst the matter of whether the JA should be involved in the imposition sentence, could be the subject of further study, it is not necessary presently to recommend a change in the current system. Indeed at the service level, in serious cases where a CM is justified, that there would be considerable opposition to taking powers of sentencing away from the court itself.		
21.	Recommendation 21. Despite what I have said above, I do not consider that one should ignore the argument for the trial JA imposing sentence and giving reasons for such. I believe that support for his doing so would be strengthened where appeal rights in respect of a CM sentence to be conferred. The issue should thus be further considered.		
22	Recommendation 22. A good case should be established for now considering the conferring of rights of appeal (by leave) in relation to sentences imposed by court martial or DFM. There is no pressure for change from those interviewed or who had put in submissions. However, it is observed that were appellate rights given in relation to sentence, the justification for requiring stated reasons for particular sentence would be considerably increased. Amendments would also need to be made to s.20 of the DFD Appeals Act to deal with the rights of appeal in relation to sentence.		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
23	Recommendation 23. No case is made for a prosecution appeal as of right or by leave appeal against sentence. Whether there should be a limited right of appeal in respect of sentence would be a highly controversial issue. The situation with a disciplinary tribunal exercising disciplinary power is not quite analogous with the position of the prosecution in relation to prosecution appeals against sentence on the grounds of manifest inadequacy in the ordinary criminal courts. The position in the civil courts is that the Crown may address on sentence at trial, and does in some cases, have a duty to do so.		
24.	Recommendation 24. That consideration be given to the inclusion of a 'no conviction' option in respect of an offence charged under the DFDA. Such would recognise that there may be good reasons for no conviction being recorded.		
25.	Recommendation 25. There is a good case for amending s.116 to make warrant officers eligible for membership of courts martial. Whether or not, after a period of time, lower ranks could/ should be involved may depend upon experience involving the significant change proposed and how, if made, it works out in practice.		
26	Recommendation 26. Specifically that non-commissioned members of the rank of Warrant Officer be eligible to serve upon a General or Restricted Court Martial provided that the non-commissioned member is equal or senior in rank to the accused.		
27	Recommendation 27. That although arguments exist for a limited right of appeal in some cases from decisions of a commanding officer or other summary authorities, no action should be taken, at this stage, to introduce any such appeal rights.		
28.	Recommendation 28. In view of the arguments advanced during this study, the issue of conferring rights of appeal, if any, should be the subject of further consideration, particularly in the classes of cases		

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	Recommendation	Agreement	Relevance
	which have been identified (eg elective punishments involving reduction in rank).		
29.	Recommendation 29. The present review system has generally proved to be efficacious and provided appropriate protections for defence members and benefits to the Service in streamlining the administration of justice.		
30.	Recommendation 30. The advantages of any system of appeal from decisions at the summary authority level are outweighed by the disadvantages. The study lends support to the views of the senior officers who opposed the introduction of an appeal system.		
31.	Recommendation 31. Concern is felt regarding submissions that suggest that some s.154(1)(a) reporting officers may not have sufficient experience or training properly to report for the benefit of the reviewing authority. The difficulty could be addressed by training, exposure to criminal law eg by way of secondment to offices of the DPP, and/or by the employment of reserve officers. The Army particularly does well in this area, frequently using reserve legal officers to do reports under s.154(1)(b). Perhaps a certificate of qualification and suitability to be s.154(1)(b) reporting officer could be given by the newly established Military Law Centre.		
32.	Recommendation 32. Subject to the exigencies of service s. 154(1)(b) reporting officers should be legal officers totally independent of the prosecution process and of the reviewing authority.		
33.	Recommendation 33. To assist particularly Commanding Officers, that increased formalised training and education be furnished to them before they take up their position as Commanding Officer and exercise service tribunal jurisdiction as a summary authority. Steps be taken to ensure that they are knowledgeable about their roles in the military justice system and competent to perform them. The new Military Law Centre could play a significant 'supportive' role in this are of education, even awarding a		

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	Recommendation	Agreement	Relevance
	'certificate' on completion of a course.		
34.	Recommendation 34. In respect of elective punishments, provision be made for the election to be in writing and for the summary authority to furnish the accused certain explanations about the election when giving him the opportunity to elect trial by DFM or court martial.		
35.	Recommendation 35. The punishment of reduction in rank should be removed as an elective punishment.		
36.	Recommendation 36. In the absence of appeal rights, the range of elective punishments presently available should be reviewed.		
37.	Recommendation 37. That provisions (probably by way of regulations) be introduced requiring that an election be in writing and further dealing with the obligations upon an officer to provide explanations to the accused when giving him the opportunity to elect.		
38.	Recommendation 38. That a structured and in depth course of teaching and training in relation to the DFDA be implemented for all officers about to be appointed as commanding officers. That course should be the same irrespective of service.		
39.	Recommendation 39. That ongoing education and instruction be given to those who act in the capacity of a summary authority.		
40.	Recommendation 40. That sentencing statistics and guidelines in relation to summary punishments be prepared, published and made available from time to time.		
41.	Recommendation 41. The legal principles discussed in reports of the JAG/DJAGs (and in s.154 (1)(a) reports) should be the subject of reporting and dissemination to commanding officers.		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
42.	Recommendation 42. [This recommendation is identical to Recommendation 33].		
43.	Recommendation 43. That the Military Law Centre provide uniform training and education to commanding officers before such officers commence to sit as summary authorities, to ensure they are knowledgeable about their roles in the military justice system as a summary authority. The matter of certification by the Military Law Centre or some other body could be addressed.		
44.	Recommendation 44. There is a case for providing some basic legal training and work materials to those [who] may be called upon to participate as a prosecuting or defending officer at a summary trial.		
45	Recommendation 45. That instructions be given, if necessary by statutory amendment, that any summary authority (including CO, SUPSA and SUBSA) who has been involved in the investigation or the preferring of a charge against an accused shall not hear or deal with any such charge against that accused.		
46.	Recommendation 46. Absent a compelling need or legal requirement, there is no need to change the present system of reporting on commanding officers in relation to the performance of duties in maintaining and enforcing service discipline.		
47.	Recommendation 47. There should be no reporting upon a commanding officer in respect of the performance of duties as a service tribunal in a particular case.		
48.	Recommendation 48. Consideration should be given to extending the discipline officer jurisdiction (with appropriate modifications) to deal with officers holding the rank of Major and below.		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
Grey report 1998 (97 recommendations)⁴			
1.	Recommendation 2.1. The culture of the Defence Academy be changed by taking the steps outlined in annex A. There are significant concerns about the Defence Academy culture (paras 1.8-1.114; 2.1-2.30; 2.36-2.74).		
2.	Recommendation 2.2. The change process be monitored by a body external to the Defence Academy. The culture needs to reflect the broader Australian Defence Force culture and keep pace with changes. The Defence Academy is pervasive and it is difficult for staff to maintain an objective view (para 2.75).		
3.	Recommendation 2.3. The current induction process be completely revised to accord with the maxim 'Thrive not survive'. Induction activity which cannot be positively linked to the development of skills and knowledge required by a first year cadet of any Service be removed to other areas of the Common Military Training or Single Service Training program. Currently the induction process generates marked in-group and out-group differences with rigid and stereotypical boundaries between the groups. This results in continual pressure and hassling of first year cadets, obsessive attention to learning detail, repeated performance of low status duties and a strong emphasis on status difference in a rigid hierarchy and hostile environment (paras 1.59-1.97; 2.4-2.50).		
4.	Recommendation 2.4. The concept and practice of collective punishment, in cases where specific individual's actions can be identified, be removed from the repertoire of techniques employed in Defence Academy training (para 2.54).		
5.	Recommendation 4.1. Defence Instruction (General) Personnel 35-3 be amended to clarify a Commanding Officer's ability to deal with ancillary issues connected to a sexual offence. There is a perception that no issue relating to a sexual offence may be dealt with by the Australian Defence Force.		

⁴ There was no formal government response to the Grey report.

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
	This is incorrect (paras 4.4.6-4.12).		
6.	Recommendation 4.2. The Australian Defence Force seek agreement for straightforward and simple acts of minor indecency to be dealt with under the Defence Force Discipline Act. These cases can be completed quickly, and the Australian Defence Force is seen to take these issues seriously (paras 4.13-4.17).		
7.	Recommendation 4.3. Defence Instruction (General) Personnel 35-3 be amended to explain that at Commanding Officer has a right to initiate any action as a result of an incident of sexual harassment, while taking the complainant's wishes into consideration. There is currently a perception that only the complainant can decide on the outcome of a complaint (para 4.19).		
8.	Recommendation 4.4. The policy goal of 'one hundred percent effective and sensitive handling of complaints' be included in Defence Instruction (general) Personnel 35-3, as this has not always occurred (para 4.20).		
9.	Recommendation 4.5. A database be established of all Defence Force Discipline Act convictions and all administrative action undertaken based on unacceptable sexual behaviour and other harassment. There is a difficulty in identifying and tracking report offenders (para 4.22).		
10.	Recommendation 4.6. Defence Instruction (general) Personnel 35-3 be amended to include the 'three strikes and you show cause' rule for convictions under the defence Force Discipline Act for any form of harassment, as a means of dealing with repeat offenders (para 4.23).		
11.	Recommendation 4.7. A long-term support strategy be developed for complainants, respondents and witnesses of unacceptable sexual behaviour. There is currently no long-term strategy to deal with the effects of unacceptable sexual behaviour (paras 4.24-4.26).		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
12.	Recommendation 4.8. There be a no touching in the workplace policy implemented at all Service establishments, including training establishments and ships. Sexual relations between staff and students to be proscribed at training establishments. Breaches of the no touching policy to be dealt with administratively where possible and appropriate, with Defence Force Discipline Act action the last resort. The current fraternisation policy does not work in a communal living environment in which cadets need to view each other as colleagues and not sexual partners (paras 4.27-4-34).		
13.	Recommendation 4.9. There be a Defence Academy policy prohibiting entry by a cadet into another cadet's room without invitation and similar policy to be considered for all training establishments, to discourage the 'bishing' of rooms or unacceptable 'peer counselling' (para 4.35).		
14.	Recommendation 4.10. There be a Defence Academy policy prohibiting a cadet from being in another cadet's room between 23.59 and 06.30 without the door being fully opened, and a similar policy to be considered for all training establishments. Most serious sexual assaults take place at night after extended drinking sessions. If a sexual assault occurs and the victim does not wish to pursue the complaint, the Commandant may at least deal with entry to the victim's room (para 4.37).		
15.	Recommendation 4.11. Unauthorised entry to the rooms of cadets be dealt with severely. If a sexual assault occurs and the victim does not wish to pursue the complaint, the Commandant may at least deal with unauthorised entry to the victim's room (para 4.36).		
16.	Recommendation 4.12. All Australian Defence Force establishments ensure that work and accommodation areas are a safe environment for all members. The Australian defence Force has a duty of care under the <i>Occupational Health and Safety (Commonwealth) Employment Act 1991</i> (para 4.41).		
17.	Recommendation 4.13. All Australian Defence Force establishments ensure that alcohol is not served to members under the age of 18, in light of community norms and laws that persons under the age of 18		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
	years not be served alcohol (paras 4.48-4.51).		
18.	Recommendation 4.14. Defence Academy staff supervise the Corps of Officer Cadets Mess bars. There is excessive consumption of cheap alcohol usually with minimal, if any, supervision. Unacceptable sexual behaviour frequently occurs as a result of excessive consumption (paras 4.47-4.50, para 4.52).		
19.	Recommendation 4.15. At the Defence Academy the upstairs bar in the cadets' mess be alcohol-free. There is insufficient access to a wide range of alternative beverages (para 4.52).		
20.	Recommendation 4.16. Corps of Officer Cadets Standing Orders be amended to make it an offence for cadets under the age of 18 years to consume alcohol at the Defence Academy, in order to conform to community norms and laws (para 4.51).		
21.	Recommendation 4.17. At the Defence Academy cadets be routinely asked to show identity cards in the mess bars. This occurs in other Australian Defence Force messes and commercial establishments in order to ensure persons under the age of 18 are not served alcohol (para 4.51).		
22.	Recommendation 4.18. Light beer only be sold in the Corps of Officer Cadets Mess bars. Spirits not to be available on cadet function nights, when only light beer and wine be available. Most sexual assaults occur after mess nights or other extended drinking sessions. Limitation to light beer and wine would reduce alcohol consumption (para 4.51).		
23.	Recommendation 4.19. Supervising Defence Academy staff to direct bar staff not to serve a cadet who is considered to be drunk. There are potential legal liabilities for the Australian Defence Force in connection with serving alcohol to members who are drunk (paras 4.51-4.53).		
24.	Recommendation 4.20. The Officer Cadet Assessment and Review Profile be raised for the end of		
	Agreed	Agreed in part	No response
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			Not relevant

	Recommendation	Agreement	Relevance
	Year Board of Review on all cadets, and only on cadets with special requirements for the Mid Year Board of review. There is little value in assessments being raised on all cadets. Also, cadets must be able to make mistakes without constant fear of failing assessments (paras 4.45-4.57).		
25.	Recommendation 4.21. Peripheral issues including academic input, medical limitations and whether a cadet has been harassed be given serious consideration before a cadet is placed on a warning. These issues are not being taken into consideration. Cadets cannot help being harassed or placed on medical restrictions, and there are significant effects of this which must be considered (paras 4.58-4.76).		
26.	Recommendation 4.22. Warnings state clearly what constitutes the poor performance of behaviour of a cadet, exactly what standards must be reached, and what the cadet has to do to improve their performance and reach the required standard. This does not occur, consequently cadets are provided with insufficient guidance on how to improve their performance (paras 4.68-4.77).		
27.	Recommendation 4.23. Cadets at the Defence Academy be required to attend all lectures and tutorials applicable to their degree. The Defence Academy is not a civilian institution, and cadets receive payments for their services and have extra responsibilities (paras 4.79-4.81).		
28.	Recommendation 4.24. An ongoing equity review mechanism be developed, in order to review the progress of equity throughout the Australian Defence Force, in order to ensure that the Australian Defence Force is maintaining its focus on eliminating unfair practices and policies (para 4.82).		
29.	Recommendation 4.25. A review facility be established in the Defence Personnel Executive to provide an opportunity for a perceived independent review of unacceptable behaviour cases. The current review system is viewed with cynicism by some members of the Australian Defence Force who do not view it as independent (para 4.83).		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
30.	Recommendation 4.26. Competency-based selection criteria be developed for military staff at the defence Academy. Military staff play a critical role in supporting, guiding, teaching and acting as role models for cadets. There are no, or inadequate, selection criteria and different selection processes. Selection criteria need to be established base on the range of skills, attitudes and knowledge relevant to the Defence Academy paras 4.84-4.105).		
31.	Recommendation 4.27. All Mentor Instructors/Divisional Officers at the Defence Academy should have had at least two postings since graduation, and at least one of these should be in a mixed-gender environment, in order to ensure they have sufficient and relevant experience (para 4.90).		
32.	Recommendation 5.1. A position similar in status to Commanding Officer military Command Wing be reinstated as a matter of priority. The duties of the Deputy Commandant are too wide for them to be dealt with effectively, with a focus on administrative minutia to the detriment of broader policy issues (paras 5.14-5.16).		
33.	Recommendation 5.2. The Defence Academy rationalise extra regimental appointment and explore alternatives, particularly with regard to sports administration. Divisional Officers appear to spend too much time on administrative duties and insufficient time with cadets (paras 5.37-5.38).		
34.	Recommendation 5.3. The Defence Academy review and streamline current administrative procedures. There are single Service and Defence Academy administrative procedures, all of which take up valuable time which could be better utilised with cadets (paras 5.39-5.41).		
35.	Recommendation 5.4. The Defence Academy, through Corporate Support, employ a civilian administration specialist on the scale of one per squadron office, in order to alleviate the administrative burden borne by Squadron staff (para 5.41).		

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	Recommendation	Agreement	Relevance
36.	Recommendation 5.5. The Defence Academy exploit the use of variable working hours to better serve the needs of both its staff and cadets. There is a limited opportunity for staff to meet with cadets during normal working hours. Staff currently work evenings and weekends (paras 5.46-5.48).		
37.	Recommendation 5.6. The Director of Defence Housing be directed to treat the Defence Academy as a special case, and grant it the right to recommend the allocation of houses in Academy Close. Further, consideration should be given to building on-campus housing for Defence Academy staff employed in key positions. Staff work long hours are required to be on call. Many staff live up to 20 kms away from the Academy (paras 5.49-5.52).		
38.	Recommendation 5.7. The Divisional System be complemented by a structured mentoring program whereby Divisional Officers are replaced by Mentor Instructors (MIs) reporting to the Military Training Wing. This title makes a break with the past and clearly describes the role of MIs to guide, instruct, act as a role model, without the encumbrance of administration. It is important that the relationship between MIs and cadets be based on trust and not on fear of negative assessment reporting. There is currently no trust and issues are kept within the Corps (paras 5.55-5.76).		
39.	Recommendation 5.8. Squadron sergeant Major positions be upgraded to Warrant Officer Class One equivalent, and Squadron Sergeant positions upgraded to Warrant Officer Class Two equivalent and renamed to Squadron Warrant Officer. Both positions, reporting through Squadron Officers Commanding to assume responsibility for the daily operation of divisions. This would result in members of sufficient experience running the divisions and permit cadets to develop a knowledge of the role of Senior Non-Commissioned Officers (paras 5.63-5.64).		
40.	Recommendation 5.9. Field Training assume responsibility for the conduct of all drill training at the Defence Academy, in order to release Senior Non-Commissioned Officers (SNCOs) to run the divisions,		

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	Recommendation	Agreement	Relevance
	and to allow a broadening of the range of SNCOs suitable for such employment (para 5.65).		
41.	Recommendation 5.10. Mentor Instructors (MIs) be responsible for a group of cadets not exceeding 50, where each cadet in the group is undertaking studies in the same degree stream, and is of the same Service as the instructor Cadets currently receive insufficient information about their parent Services. Also MIs will be able to develop relationships for a small number of relevant academics to be benefit of cadets (paras 5.66-5.71).		
42.	Recommendation 5.11. Two Morning Parade periods per week be allocated to Mentor Instructors for the purpose of conveying information to cadets relating to their parent Service, academic studies or military pursuits. This would permit a regular time for staff and students to meet (para 5.78).		
43.	Recommendation 5.12. Select Advanced Student Division members be integrated into divisions with a ratio of one per division, for the purpose of providing guidance and out-of-hours supervision to cadets. A form of compensation for these members to be sought. There is currently insufficient supervision of cadets out-of-hours, which results in inappropriate behaviour (paras 5.80-5.85).		
44.	Recommendation 5.13. The term 'Corps of Officer Cadets' be discontinued. The cadet body to be simply referred to as 'the cadets'. The usefulness of this term has been questioned since its inception, as it implies Army. Terminology in a tri-service environment should be representative of the three Services. In addition loyalty to the Corps above else has led to covering up incidents of unacceptable sexual behaviour (paras 5.88-5.90).		
45.	Recommendation 5.14. Defence Academy unique 'rank' embellishments be removed from second and third year shoulder boards, with the exception of their cadet hierarchy. To distinguish between Defence Academy cadets and other officer trainees, all cadets, regardless of year, to wear one gold stripe. Advanced Student Division members to retain shoulder board embellishments as a symbol of their		

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	Recommendation	Agreement	Relevance
	advanced standing. Cadets confuse seniority with rank, the same shoulder board for the same rank reflects the custom in the Australian Defence Force (paras 5.91-5.97).		
46.	Recommendation 5.15. The Defence Academy streamline the cadet hierarchy by removing task duplication. The cadet hierarchy be redefined to include Squadron Cadet Captain and above with each appointment holder reviewed biannually. Practices in divisions do not always reflect the wishes of the commandant or Deputy Commandant; this can be attributed to the convoluted administrative/command chain, inadequate supervision of cadets and the actual duties themselves. The removal of duplication of tasking is critical (paras 5.100-5.103).		
48.	Recommendation 5.16. The positions of Squadron cadet captain (SCC) and Squadron Cadet Lieutenant (SCL) be amalgamated and referred to as Squadron Cadet Captain. The SCL position simply takes the administrative burden from the SCC; which is in any case a staff responsibility (para 5.104).		
49.	Recommendation 5.17. The Defence Academy review the duty statements of Divisional Cadet Captain and Section Under Officer, and reallocate tasks to staff where appropriate. Cadets currently assume to many of the staff responsibilities, eg monitoring of academic, military and fitness programs and standards (paras 5.107-5.110).		
50.	Recommendation 5.18. The position of Divisional Cadet Captain be replaced by a Duty Divisional Cadet, rotated every two months, and identified by a brassard. This would permit a greater of number of cadets leadership training opportunities (paras 5.107-5.110).		
51.	Recommendation 5.19. The position of Section Under Officer be replaced by a Duty Section Cadet, rotated fortnightly, and identified by a brassard. This would permit a greater of number of cadets leadership training opportunities (paras 5-107-5.110).		

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	Recommendation	Agreement	Relevance
52.	Recommendation 5.20. The Defence Academy review the duty statements for Articles In Use Clerk, Divisional Administration Cadet, Divisional Treasurer and Divisional Occupational Health and Safety representative and determine whether the positions are still necessary, as cadets may be undertaking nugatory work (paras 5.110-5.111).		
53.	Recommendation 5.21. With the exception of identified hierarchy position holders, cadets be moved between squadrons at the completion of both their first and second year of training. This would break down undesirable cliques, permits cadets to know a greater number of other cadets and provide cadets with an insight into the turmoil of positing (para 5.112-5.114).		
54.	Recommendation 5.22. Sections comprise both male and female cadets from a single year, but a mix of the three Services and degree streams. The 'rank versus seniority' culture relegates first year cadets to the status of 'slaves'. This would be eroded as all cadets would be responsible and accountable for the cleanliness of their own area. Currently first year cadets do all such work (paras 5.116-5.120).		
55.	Recommendation 5.23. The integration of mixed-gender accommodation be a gradual process over the cadets' three years of training. In first year, cadets to be accommodated in single-gender corridors; in second year cadets may elect to live in either a single or mixed-gender corridor; and in third year all corridors will be mixed gender. Cadets do not have to acquire mature Australian Defence Force life skills from the first day of induction. Initial single-sex corridors provide a high level of privacy and peer support (paras 5.122-5.126).		
56.	Recommendation 6.1. The number of Defence Academy Equity Advisers be reduced and greater care be taken in the selection and training of Equity Advisers. This is because there are too many advisers, some of whom are unsuited to the task, and a standardised approach is required. A smaller number of Advisers and standardised training will mean they are able to develop better skills. Repeat offenders		

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	Recommendation	Agreement	Relevance
	should be easier to identify with a smaller number of advisers (para 6.9-6.13).		
57.	Recommendation 6.2. It be mandatory for cadets to notify their Officer Commanding if they are involved in, witness, or become aware of an incident, or planned incident, of unacceptable sexual behaviour, general harassment, discrimination or criminal behaviour. Officers Commanding are to brief senior staff regularly on notified incidents of all such unacceptable behaviour. This is to ensure that management staff are made aware of such behaviour (paras 6.14-6.17).		
58.	Recommendation 6.3. Staff members who fail to notify or act on incidents of unacceptable behaviour of which they become aware be given a notice to show cause why they should not be removed from the Defence Academy. This is to ensure that staff comply with the requirement to keep Academy management informed of incidents of unacceptable behaviour (para 6.17).		
59.	Recommendation 6.4. Notwithstanding any other punishment deemed necessary, a member of the cadet hierarchy found to have failed to notify an incident of unacceptable behaviour be removed from his or her position. This is because a cadet who fails to keep higher management aware of such incidents is unsuitable for a hierarchal position (paras 6.17).		
60.	Recommendation 6.5. The title Confidante be used for those who provide confidential support to cadets and that Confidante lists be widely promulgated. This will provide specialist personnel, outside the chain of command, who are available to provide confidential support for cadets (para 6.18).		
61.	Recommendation 6.6. The Defence Academy develop guidelines for the use of consensual dispute resolution techniques when dealing with matters other than criminal behaviour, such as harassment, discrimination or unacceptable sexual behaviour complaints. This will ensure that these matters are dealt with quickly and at the lowest possible level (para 6.19-6.27).		

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	Recommendation	Agreement	Relevance
62.	Recommendation 6.7. Staff and cadets at the Defence Academy be educated in the use and value of consensual dispute resolution techniques. This will ensure that these techniques are used properly, in appropriate circumstances (para 6.23).		
63.	Recommendation 6.8. An official Defence Academy file be created for each investigation that is conducted by the Academy. All documentation used by decision makers will therefore be available for review as necessary (para 6.35).		
64.	Recommendation 6.9. All information concerning officer cadets be held on their training files. This is to include details of their involvement in any matter while they are at the Defence Academy. This will ensure that records on each cadet are complete should the information be required at a later date (paras 6.32-6.34).		
66.	Recommendation 6.10. All Defence Force Discipline Act (DFDA) investigations at the Defence Academy be conducted by the Service Police and there be an immediate increase of two additional Service Police in the Military Police Detachment Canberra. At any one time there be an investigator at priority call for the Defence Academy. This is because of the complexity of DFCA matters and the need for appropriately trained and available investigative staff (paras 6.46).		
67.	Recommendation 6.11. The Commandant monitor the implementation of the recommendations made by investigating officers at the Defence Academy, to ensure that appropriate follow up action is taken (paras 6.55-6.56).		
68.	Recommendation 6.12. Appropriate standards of Service discipline be maintained and enforced at the Defence Academy, to overcome the perception that the enforcement of discipline has been eroded at the Academy (paras 6.57-6.58).		

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	Recommendation	Agreement	Relevance
69.	Recommendation 6.13. The Defence Academy implement comprehensive support procedures for the care of complainants and alleged offenders, to ensure that there is a consistent approach by staff when providing support and assistance to cadets and their families (paras 6.64-6.69).		
70.	Recommendation 6.14. The Defence Academy include in Cadet Standing Orders the following order; Cadets who are involved in any inquiry or complaint are not to be victimised, penalised, harassed, suborned, intimidated or threatened by other cadets or military staff. Failure to comply with this order will result in disciplinary action. Any cadet who becomes aware of a breach of this order by any person is to report the breach to his or her staff chain of command or to any staff member immediately (para 6.70).		
71.	Recommendation 6.15. Existing Australian Defence Force policy be reviewed with a view to providing greater flexibility in the use of consensual dispute resolution techniques, as an alternative to action under the Defence Force Discipline Act. These techniques are particularly suited to minor matters, which can be dealt with quickly without the formality of formal investigations (paras 6.19-6.20).		
72.	Recommendation 6.16. An investigative mechanism be designed and introduced to enable management to deal with minor matters which are not criminal matters, such as unacceptable sexual behaviour in the workplace with an emphasis on informality, simplicity and the resolution of the incident at the lowest possible level (paras 6.64-6.69).		
73.	Recommendation 6.17. That Australian Defence Force (ADF) casualty procedures be reviewed to ensure that entitlements such as the Australian dangerously Ill Scheme (AUSDIL) provide assistance for next of kin where ADF members manifest psychological or emotional (as opposed to physical) difficulties. This will ensure that provision exists to provide support (such as travel by next of kin) for victims of serious crime, such as sexual assault (paras 6.64-6.69).		

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	Recommendation	Agreement	Relevance
74.	Recommendation 7.1. The current number of periods allocated to Common Military Training (CMT) be reviewed to effect a slight reduction in total CMT periods. CMT has expanded by 90 periods more than proposed in 1976. For many cadets there is little to no spare time within their daily program to allow them to focus on the value of their studies. An intense academic/military workload causes cadets to ill judge their priorities and take less heed of some subjects (paras 7.16-7.19).		
75.	Recommendation 7.2. Common Military Training be renamed Military Leadership Training and the military Training Wing be renamed the Military Leadership Wing. Not all training conducted by the Defence Academy under the banner of CMT is military training. Focus needs to be maintained on the role of 'leadership' in drawing together all subjects taught to cadets within the Military Component of the Academy. (paras 7.96-7.100).		
76.	Recommendation 7.3. The annual training validation survey of cadets who graduated from the Corps of Officer Cadets in the previous 18 months be undertaken every two years, and Common Military Training subject coordinators should provide input to the content and format of these surveys. The frequency of this annual exercise is not yielding significant findings. The saving in work hours should be reinvested in staff training, extra contact hours with cadets, or in annual training validation interviews with the supervisors of COOC graduates of six months ago. (paras 7.12-7.14)		
77.	Recommendation 7.4. The Counselling skills course currently provided to second year cadets be conducted during third year as part of the Common Military Training program. If third year cadets are no longer responsible for reporting on first and second year cadets, there necessity to conduct formal counselling interview within the COOC is significantly diminished. The course should be offered to cadets just-in-time for employment as junior officers. (paras 7.43-7.44)		
78.	Recommendation 7.5. Occupational Health and Safety Supervisor Training delivered to cadets in		

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	Recommendation	Agreement	Relevance
	second year be reviewed to achieve outcomes through experiential learning. The current lecture room format employed on this course is not attracting cadet interest or attention. More practical activity through onsite facility inspections is recommended. (paras 7.46-7.48)		
79.	Recommendation 7.6. The current subject Interpersonal Relations be replaced by a new subject titled Equity and Diversity. Interpersonal Relations as it currently exists is poorly designed with a negative training focus on unacceptable behaviour. Equity and Diversity reflects modern terminology and guidance in workplace relations, and encompasses cultural awareness. (paras 7.49-7.59)		
80.	Recommendation 7.7. A course on Protective Behaviours be introduced to the first year of the Common Military Training program. The course has been used in schools and by Police to educate people of all ages on how to protect themselves from violence and abuse. It focuses on early warning signs, safety and the use of networks, and presents strategies for dealing with threatening situations. (para 7.60)		
81.	Recommendation 7.8. The syllabus of the subject Military Etiquette be fully reviewed in order to achieve more positive outcomes. The continuing incidence of unacceptable behaviour at defence Academy social functions indicates that the terminal objectives of Military Etiquette are not being met. (Paras 7.75-7.83)		
82.	Recommendation 7.9. The availability of alcohol at cadet training dinners at the Defence Academy be strictly limited. Excessive consumption of alcohol has proven to be a contributing factor in reported incidences of cadet misbehaviour. (paras 7.76-7.83)		
83.	Recommendation 7.10. Personal Management be introduced as a new Common Military Training subject to include courses in Time Management, Stress Management, Study Skills and Speed Reading. Tuition in these personal skills should be regarded by the ADF as a human resource investment, for		

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	Recommendation	Agreement	Relevance
	producing officers capable of performing in the fast lane of the 21 st century (paras 7.91-7.94 and 7.96)		
84.	Recommendation 7.11. Information Technology be introduced as a new Common Military Training subject to familiarise cadets with Academy and Australian Defence Force computer systems, operations and keyboard skills. Computer skills are essential for education and training at ADFA and for employment in the ADF. (para 7.95)		
85.	Recommendation 7.12. The Common Military Training curriculum be restructured to comprise two programs, Officer Development and Profession of Arms. Officer Development identifies current and newly proposed subjects that prepare an officer cadet in life skills and interpersonal skills, as a basis for subjects that distinguish the Profession of Arms. (paras 7.96-7.100)		
86.	Recommendation 7.13. Three Military Training wing staff of Major equivalent rank be given primary appointments as coordinators of the Life Skills Module, the Interpersonal relations Module and the Profession of Arms Program, as well as supervising officers of Mentor Instructors. These appointments at Major equivalent rank are required to provide adequate management of each component of the CMT curriculum and for span of control over the 24 Mentor Instructors. (paras 5.13 and 7.96-7.100)		
87.	Recommendation 7.14. The Common Military Training curriculum be evaluated for civilian accreditation. The Defence Academy is one of few educational institutions that has not had its training curriculum competency-based for civilian accreditation. Training in ethics, personal development and unacceptable behaviour should lead to identified competencies within a formally accredited program. (paras 7.101-7.104)		
88.	Recommendation 7.15. Behavioural Science studies be offered by the University College for inclusion as General Education subjects in undergraduate degrees. Cadets need to be exposed to the full range of contemporary issues that are influencing Australian society, including gender employment, changes in		

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	Recommendation	Agreement	Relevance
	community values and expectations, impacts of recent legislation and the civil/military relationship. (paras 7.105-7.110)		
89.	Recommendation 7.16. the defence Academy maximise opportunity to use specialist training from units such as the RAAF School of Management and Training Technology to improve staff performance. There are several ADF schools and units that can provide specialist training for Defence Academy staff. (para 7.117-7.120)		
90.	Recommendation 7.17. The inclusion of an undergraduate degree be an essential criterion for appointment of Deputy Commandant officer staff in the longer term. The role modelling and duties of each Mentor instructor include counselling cadets on the relevance of territory studies for each cadet's future employment as an ADF officer. Special provision could still exist to select for the DCOMDT service, any non-tertiary qualified officers who have compensatory training and experience. (paras 7.122-7.123 and 7.131-7.132.)		
91.	Recommendation 7.18. Staff be encouraged to attend academic lectures on either an assessed or non-assessed basis depending on their wishes and their academic qualifications. Not only would staff involvement in specific academic studies improve their own performance, but it would allow staff to monitor cadet attendance and behaviour at lectures and to interact with cadets in tutorials. (paras 7.133-7.137)		
92.	Recommendation 7.19. New Deputy Commandant staff be posted to the Defence Academy in early November each year. This measure would allow the AITC and most of the current STIP to be completed before the busy cadet induction period in January. (paras 7.124-7.126)		
93.	Recommendation 7.20. Joining instructions to all new military staff be issued at least six weeks before the Defence Academy march-in date. Currently, no joining instructions in respect to STIP are forwarded		

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	Recommendation	Agreement	Relevance
	to new staff. (para 7.130)		
94.	Recommendation 7.21. A two-day equity seminar be conducted every year for all military staff. The two-hour unacceptable behaviour briefing given to new staff prior to 1998 was inadequate. A revised program comprising a half day of presentations by external presenters, a half day of cross-cultural awareness training, and one day of workshops on Academy specific equity issues is recommended for attendance by all military staff. (paras 7.138-7.140)		
95.	Recommendation 7.22. Defence Academy military staff annual performance reporting clearly reflect on the staff member's contribution to equity principles. Staff education and training in respect to equity needs to be exercised and validated. (para 7.122)		
96.	Recommendation 7.23. All Australian defence Force military training staff receive training in equity and cross-cultural awareness. This recommendation flows from the findings of this Report. (para 7.143)		
97.	Recommendation 7.24. At least two staff officers at the defence Academy undergo the Investigating Officer training being developed by Head, Joint Education and Training, as a matter of priority. Following this initial training, at least two Academy staff Officers to undergo Investigating Officer training each year. This recommendation reflects an urgent requirement to have trained investigators available at the Defence Academy. (para 7.134 and 7.141)		
Defence Force Ombudsman's report 1998 (36 recommendations)			
1.	Recommendation 1. That the ADF consider amending DI(G)ADMIN 34-1 to the effect that it is not appropriate for Investigating Officers, Boards or Courts of Inquiry to make a finding that a criminal offence has been committed, and where there is sufficient evidence to suggest that an offence has been committed, the matter should be referred to the appropriate authority for investigation under the DFDA		

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	Recommendation	Agreement	Relevance
	and/or the civil criminal law. (para 2.67)		
2.	Recommendation 2. That the ADF consider amending the sample Terms of Reference provided in the guidance on investigations under the Defence Inquiry Regulations (and in single Service instructions where they exist) to the same effect. (para 2.67)		
3.	Recommendation 3. That the ADF consider whether amendments are necessary to the guidance on when to choose a Board of Inquiry rather than an Investigation Officer, in order to encourage consistency and to minimise any perceptions that complaints are not being treated sufficiently seriously. (para 2.68)		
4.	Recommendation 4. That the ADF consider the adequacy of training in the use and value of alternative dispute resolution techniques. (para 2.70)		
5.	Recommendation 5. Review the Defence Instructions on the management of complaints to HREOC of sexual or racial discrimination, or under the Redress of Grievance procedures to ensure that a consistent emphasis is placed on resolving complaints by alternative dispute resolution mechanisms. (para 2.70)		
6.	Recommendation 6. Collect data (in a format similar to that for unacceptable sexual behaviour) for all complaints of discrimination and harassment, and when reported, require units to indicate whether resolution of the complaint by alternative dispute resolution mechanisms was considered, and if not, why not. (para 2.70)		
7.	Recommendation 7. Expand the reporting requirements for incidents of unacceptable sexual behaviour to require the same data for incidents of that nature (it is noted that the guidance already requests reports on whether unacceptable sexual behaviour complaints were resolved informally. However, this does not allow for an assessment of whether mediation and conciliation is being routinely considered, or whether such approaches are being used when appropriate). (para 2.70)		

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	Recommendation	Agreement	Relevance					
8.	Recommendation 8. Considers removing all reference to 'informal investigations' in the guidance. (para 3.31)							
9.	Recommendation 9. Amend the Defence Instructions to provide clear guidance on the purpose and value of preliminary inquiries, and the extent to which they can be used. (para 3.31)							
10.	Recommendation 10. Amend the Defence Instructions to provide clear guidance on accountability requirements for preliminary inquiries. (para 3.31)							
11.	Recommendation 11. All Instructions on the handling of complaints and grievances, and on the conduct of investigations include reminders of the factors to be considered when selecting or appointing an Investigating Officer. Where particular expertise may be required, the Commanding Officer should be advised to ensure that the Investigating Officer has the appropriate expertise, or that the Investigating Officer consults with individuals with the relevant expertise (preferably before commencing the investigation). (para 4.51)							
12.	Recommendation 12. All Investigating Officers, under both the DFDA and the DIRs (and members of Boards or Courts of inquiry) be required to declare any actual or potential conflict of interest before commencing an investigation. (para 4.51)							
13.	Recommendation 13. The ADF revise its Instructions to ensure that Commanding Officers are provided with guidance on how to develop terms of reference, and in particular, the requirement for terms of reference to be outcome focussed and to address context management issues. (para 4.51)							
14.	Recommendation 14. That the ADF develops a training strategy for officers who conduct investigations under the DIRs, and advises me of its strategy within two months of this report. (para 5.57)							
15.	Recommendation 15. That officers should not be appointed to conduct investigations under the DIRs							
		Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant

	Recommendation	Agreement	Relevance
	unless they have received training, or they have other experience or expertise which makes them suitably qualified to do so. (para 5.57)		
16.	Recommendation 16. Elsewhere in this report, I have recommended substantial changes to the guidance on the investigation of serious offences and incidents. Because of the difficulties experienced with DIR investigations in the past five years, I am also recommending that the guidance on such investigations be revised to provide advice to Commanding Officers and Investigating Officers on how to plan and conduct investigations. (para 5.58)		
17.	Recommendation 17. In my view, it would be sensible for the ADF to incorporate the relevant Instructions and supporting guidance into a comprehensive investigation manual for investigations under the DIRs. (para 5.59)		
18.	Recommendation 18. Finally, there is an urgent need for the Defence Instruction on investigations into matters affecting the Defence Force to be amended to clearly indicate that an Investigating Officer investigating under the DIRs cannot compel witnesses to answer questions where the answer may tend to incriminate them for a criminal or Service offence, and to indicate that assistants to an Investigating Officer do not have the power to question witnesses. (para 5.60) There is also a need to amend Annex C (Annex C to the Instruction is given to members to inform them of offences under the Defence Inquiry Regulations.) to the Instruction to the same effect. I recommend that these amendments to the Instruction be made immediately. (para 5.61)		
19.	Recommendation 19. That the ADF develops a training strategy for Officers who conduct investigations under the DIR's, and advises me of its strategy within two months of this report. (para 5.57)		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
20.	Recommendation 20. That Officers should not be appointed to conduct investigations under DIR's unless they have received, training, or they have other experience or expertise which makes them suitably qualified to do so. (para 5.57)		
21.	Recommendation 21. That the ADF implement a process whereby investigating bodies report periodically on the progress of their investigation (if the investigation is to take more than one month), and which allows for an assessment of whether the investigation is being conducted appropriately. (para 6.36)		
22.	Recommendation 22. That the ADF amend the present guidance to investigators to provide advice on the development of investigation reports and recommendations, and the limits of their authority in this respect (eg. they are not to make a finding on whether a criminal offence occurred). (para 6.36)		
23.	Recommendation 23. In my view, there is also a need to ensure that Investigating Officers whose investigation and/or reports are subsequently found to be flawed are counselled regarding the inadequacy of their investigation and/or report. There may be a need for further training, or even administrative or disciplinary action in cases where more serious errors are made. (para 6.37)		
24.	Recommendation 24. That amendments be made to the relevant Instructions which provide Commanding Officers with information regarding the particular support requirements of survivors of sexual incidents or offences and a list of contact points or organisations where the necessary specialist help can be obtained. (para 7.67)		
25.	Recommendation 25. That amendments be made to the relevant Instructions so that they clearly state the ADF's policy on what action is to be taken where a member does not wish to make a formal complaint or to be medically examined. (para 7.67)		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance					
26.	Recommendation 26. That amendments be made to the relevant Instructions advise Commanding Officers that, in relation to sexual incidents or offences, evidence can be collected up to 72 hours after the event, and within that time frame, the survivor (and the alleged offender, if appropriate) should be referred to the authorities immediately so that forensic evidence can be collected. (para 7.67)							
27.	Recommendation 27. That amendments be made to the relevant Instructions clearly state the ADF's policy on compassionate travel for members (and their partners or next of kin) where serious offences occur.							
28.	Recommendation 28. That amendments be made to the relevant Instructions advise Commanding Officers of the need to allow survivors of sexual incidents or offences to make their own decisions wherever possible, and particularly in relation to their movement after an offence has occurred. (para 7.67)							
29.	Recommendation 29. That amendments be made to the relevant Instructions provide a critical incident stress management checklist for managers and supervisors to assist with observing personnel after an incident to ensure they are receiving adequate support. (para 7.67)							
30.	Recommendation 30. That the ADF extend its monitoring of trends in the incidence of sexual harassment and offences to include comparisons among the Services. (para 8.69)							
31.	Recommendation 31. That the ADF undertake regular trend analysis of DFDA and DIR investigations. (para 8.69)							
32.	Recommendation 32. That the ADF consider analysing any correlation between alcohol and/or drug abuse and serious incidents. (para 8.69)							
33.	Recommendation 33. That the ADF ensure that information and expertise can be readily shared							
		Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant

	Recommendation	Agreement	Relevance
	among the Services (para 8.69)		
34.	Recommendation 34. That the ADF spell out in the Defence Inquiry Regulations and Instruction, and particularly for Investigation Officers, the principles of procedural fairness and rights of review. (para 8.70)		
35.	Recommendation 35. Ensure that members are advised of the outcome of any DFDA proceedings which affects them. (para 8.70)		
36.	Recommendation 36. The ADF guidance on confidentiality and privacy is very clear, but not always adhered to. I recommend that the ADF consider including in the guidance advice about the desirability of forewarning a member of any public statement which may affect him/her personally. (para 8.71)		
Joint Standing Committee report 1999 (59 recommendations)			
1.	Recommendation 1. The Committee recommends that, during peacetime, the convening of a general Court of inquiry by the Minister for Defence should be mandatory for all inquiries into matters involving the accidental death of an ADF member participating in an ADF activity.		
2.	Recommendation 2. The Committee recommends that the Minister of Defence continue to have the discretion to convene a General Court of Inquiry in cases of major capital loss.		
3.	Recommendation 3. The Committee recommends that the ADF develop policy to involve the coroner from the outset of inquiries involving any fatality.		
4.	Recommendation 4. The Committee recommends that the ADF facilitate the involvement of the coroner in the initial stages of an inquiry into an incident involving death, through the provision, as required, of a liaison officer to the coroner.		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
5.	Recommendation 5. The Committee recommends that the Australian Government ensure that State legislation does not preclude state coroners from investigating coronial deaths of Military personnel and civilians involved in military enterprises or on military land or property.		
6.	Recommendation 6. The Committee recommends that a coroner investigating the death of an ADF member, should be encouraged to determine whether or not any potential criminal liability exists and, where appropriate, to attribute degrees of responsibility for the incident in his or her findings.		
7.	Recommendation 7. The Committee recommends that the practice of including specialist civilian personnel on BOI's be continued, with specialist qualifications being the basis for appointment.		
8.	Recommendation 8. The Committee recommends that in order to provide a reasonable degree of independence, Investigating Officers for military inquiries should be appointed from outside the chain of command of the individual (s) or element immediately under investigation and should not be personally acquainted with any of the parties involved in the incident.		
9.	Recommendation 9. The Committee recommends that the ADF provide more extensive guidance to commanders regarding when they invoke the various levels of investigation.		
10.	Recommendation 10. The Committee recommends that a legal review of the TOR be concluded prior to the commencement of an inquiry. Where possible for Investigating Officer inquiries and in all cases for BOI's, the review should be conducted by legal officers outside the chain of command of the Appointing Authority.		
11.	Recommendation 11. The Committee recommends that the Australian Government ensure that an Investigating Officer or Board of inquiry is empowered, by the D (I) R, to make recommendations flowing from findings germane to the Terms of Reference.		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
12.	<p>Recommendation 12. The Committee recommends that the ADF amend guidance on the conduct of Military inquiries to ensure that Investigating Officers and BOI are always:</p> <p>(a) prohibited from finding that a specific offence has been committed, but</p> <p>(b) empowered to find that sufficient grounds exist for a matter , or matters to be the subject of a DFDA investigation and to recommend the referral of that matter for DFDA action.</p>		
13.	<p>Recommendation 13. The Committee recommends that the ADF complete the development of and issue, as soon as possible, a manual providing comprehensive guidance on the conduct of military inquiries under D(I) R.</p>		
14.	<p>Recommendation 14. The Committee recommends that the President of a BOI have the responsibility to ensure that lines of questioning are relevant to the TOR and do not include unnecessary personal questions or pursue personal theories.</p>		
15.	<p>Recommendation 15. The Committee recommends that the Australian Government ensure that Legislation</p> <p>(a) does not provide a privilege against self incrimination for witnesses to an inquiry conducted by an Investigating Officer; but</p> <p>(b) does provide that any statement or disclosure made to an Investigating Officer by a witness should not be admissible as evidence in civil or criminal proceedings against that witness.</p>		
16.	<p>Recommendation 16. The Committee recommends that the ADF amend guidance on the drafting of TOR to ensure that Investigating bodies are not empowered to make specific findings apportioning</p>		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
	blame.		
17.	Recommendation 17. The Committee recommends that where the case before a BOI is serious and of legitimate public interest, That BOI should be open to the public, with the option to take certain evidence <i>in camera</i> .		
18.	Recommendation 18. The Committee recommends that members of the ADF should be promptly informed of any complaint or allegation against them where any action under D(I)R is to be taken as a result. The only exception to this right to be informed should be where forewarning may result in the destruction of evidence.		
19.	Recommendation 19. The Committee recommends that a report which is critical of a member should not be made to an Appointing Authority without the member having been afforded an opportunity to appear before the inquiry and to make any submissions (either orally or in writing) as he or she sees fit.		
20.	Recommendation 20. The Committee recommends that a member against whom action is to be taken should have access to any evidence relied upon in making a decision or taking any action which affects them except where the release of evidence given by another witness may, if disclosed, constitute a threat to the safety of that witness.		
21.	Recommendation 21. The Committee recommends that members who may be adversely affected as a result of the investigating body's report on an inquiry should be afforded access to that report within the provisions of the Privacy Act.		
22.	Recommendation 22. The Committee recommends that when witnesses are informed regarding their status and the outcome of the inquiry in relation to matters relevant to them, they should be informed as to their rights of review.		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
23.	Recommendation 23. The Committee recommends guidance on Confidentiality and Privacy be included in the proposed manual providing comprehensive guidance on the conduct of military inquiries under D(I)R.		
24.	Recommendation 24. The Committee recommends that the next of kin, or other immediate relatives, of an ADF member whose death is the subject of an inquiry, should always be permitted to attend that inquiry regardless of whether the inquiry is conducted in private or is open to the public. Exclusion of these next of kin, or other immediate relatives from the inquiry should only be on a temporary basis, from those sections of the inquiry dealing with matters of national security.		
25.	Recommendation 25. The Committee recommends that next of kin or other immediate relatives of personnel killed in military incidents should, within the provisions of the Privacy Act and relevant security considerations, be provided with a copy of the Inquiry report and advice on all actions taken as a result of the inquiry. Where a recommendation from the inquiry report is not implemented, next of kin should be provided with the reasons underpinning the decision not to adopt that recommendation.		
26.	Recommendation 26. The Committee recommends that next of kin or other immediate relatives of personnel killed in military incidents should be warned prior to the release of information to the press regarding the inquiry		
27.	Recommendation 27. The Committee recommends that the Australian Government ensure that legislation provides a right to service legal representation, at Commonwealth expense, for any member of the ADF who is likely to be affected by a BOI.		
28.	Recommendation 28. The Committee recommends that where a deceased member of the ADF is likely to be affected by an inquiry, the next of kin or other immediate relative should be afforded the option to have the interests of the deceased member represented, at Commonwealth expense, by Service legal		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
	counsel.		
29.	Recommendation 29. The Committee recommend that the appointment of a Counsel Assisting to a BOI should be strongly recommended in guidance to Appointing Authorities.		
30.	Recommendation 30. The Committee recommends that the ADF Establish processes to ensure that counselling services are available, if required , to witnesses to a military inquiry and to next of kin and close relatives of ADF members killed in the incident that is the subject of the inquiry.		
31.	Recommendation 31. The Committee recommends that all correspondence between the appointing Authority and the investigating body should be in writing and should be disclosed to all legal representatives.		
32.	Recommendation 32. The Committee recommends that the ADF should issue guidance to Appointing Authorities regarding their duties in monitoring a military inquiry.		
33.	Recommendation 33. The Committee recommends that, to protect the independence of the process, guidance should be provided to Appointing Authorities warning against any direct involvement with the conduct of the inquiry.		
34.	Recommendation 34. The committee recommends that, within the limitations of privacy and secrecy, and at the conclusion of all resultant disciplinary and administrative action, the ADF publicly account for its actions and decisions in discharging the recommendations of a BOI.		
35.	Recommendation 35. The Committee recommends that, following the conduct of a general Court of Inquiry, within the limitations of privacy and secrecy, and at the conclusion of all resultant disciplinary and administrative action, the Minister of Defence should table in Parliament:		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
	<ul style="list-style-type: none"> (a) the inquiry report; (b) the recommendations of the investigating body; (c) Details of action taken to adopt those recommendations; and (d) Where a recommendation is rejected the reason for that action. 		
36.	Recommendation 36. The committee recommends that informal investigations should be more appropriately referred to as preliminary inquiries.		
37.	Recommendation 37. The Committee recommends that the ADF should issue guidance for the conduct of preliminary inquiries to be used to assist in determining the best course of action for dealing with an incident.		
38.	Recommendation 38. The Committee recommends that the ADF should issue guidance to ensure that the requirements for Procedural fairness are satisfied in the conduct of preliminary inquiries.		
39.	Recommendation 39. The Committee agreed that the ADF should include detailed guidance on the issue of secret investigations under D(I)R in the proposed manual providing comprehensive guidance on the conduct of military inquiries under D(I)R		
40.	<p>Recommendation 40. The Committee recommends that:</p> <ul style="list-style-type: none"> (a) guidelines should be established to ensure that members making knowingly false, malicious or vexatious accusations against other members are held accountable and that suitable action is taken against them; (b) members making accusations should be made aware of guidelines regarding the accountability of 		

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	Recommendation	Agreement	Relevance
	<p>members making knowingly false, malicious or vexatious accusations;</p> <p>(c) action taken against members making knowingly false, malicious or vexatious accusations should be taken as transparently as possible , to ensure that justice is seen to be done ;and</p> <p>(d) where an accusation is found to be false, malicious or vexatious , action should be taken , as transparently as possible, to put right any detriment to the member who was falsely accused.</p>		
41.	Recommendation 41. The Committee recommends that the ADF ensure that an adequate level of training is provided to officers required to conduct an investigation under D (I) R.		
42.	Recommendation 42. The Committee recommends that the ADF provide comprehensive guidance to Investigating Officers regarding the conduct of investigations under D(I)R		
43.	Recommendation 43. The Committee recommends that the ADF provide clear guidance to Appointing Authorities regarding the level of training experience required of Officers selected to conduct investigations under D(I)R		
44.	Recommendation 44. The Committee recommends that the ADF examine the feasibility of capturing the cost of the military justice system.		
45	Recommendation 45. The Committee recommends that the ADF provide a single annual report on the operation of the military justice system to the minister of Defence and that the Minister table the report in the Parliament. The report should address the operation of the DFDA, the military inquiry system and the administrative action system.		
46.	Recommendation 46. The Committee recommends that, after the proposed post Abadee arrangements have been in operation for three years, the issue of intuitional independence in relation to		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
	prosecution in Courts Martial and DFM trials be reviewed.		
47.	Recommendation 47. The Committee recommends that consideration should be given to reviewing current arrangements to allow the ADF to deal with all cases involving straightforward acts of indecency without requiring the consent of the Director of Public Prosecutions.		
48.	Recommendation 48. The Committee recommend that the ADF ensure that existing guidelines on the right to privacy are adhered to in the conduct of DFDA action.		
49.	Recommendation 49. The Committee recommends that the ADF undertake a formal training needs analysis with respect to the use and implementation of the DFDA as a basis for the development and introduction of appropriate education and training courses.		
50.	Recommendation 50. The Committee recommends that the ADF consider the introduction of structured continuation training for Defence Force Magistrates and Judge Advocates on the DFDA.		
51.	Recommendation 51. The Committee recommends that, as part of a comprehensive public disclosure of the matter of AAT , the Meecham report, a comprehensive report on the matter of AAT and any relevant documents relating to AAT should be tabled in the Parliament.		
52.	Recommendation 52. The Committee recommends that the report on the operation of the DFDA should be tabled in a more timely manner.		
53.	Recommendation 53. The Committee recommends that where professional failure involves negligence of a criminal nature, subject to the weight and probity of evidence being sufficient, criminal proceedings should be instituted.		
54.	Recommendation 54. The committee recommends that the ADF prepare and issue guidelines		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
	<p>(a) require members submitting an AROG to accompany it with a checklist based on a pro forma which sets out the steps they had taken and the personnel they had contacted in attempting to assess their situation and obtain advice on their complaint; and</p> <p>(b) permit Commanding Officers, or CRA, when they receive an AROG to request that the member seek to discuss the complaint with an appropriate ADF Office or Officer the checklist indicates the member has not contacted.</p>		
2.	Recommendation 2. The ANAO <i>recommends</i> that, to avoid having the Redress of Grievance system used for inappropriate purposes, Applications for Redress of Grievance which result in the suspension of executive action be identified early and processed promptly.		
3.	Recommendation 3. The ANAO <i>recommends</i> that, to make processing, investigation and resolution of Applications for Redress of Grievances more efficient and effective, Defence encourage members to seek specialist advice when preparing them.		
4.	Recommendation 4. The ANAO <i>recommends</i> that Defence provide that Applications for Redress of Grievance be considered first by the member's Commanding Officer, who, if unable to resolve the complaint to the member's satisfaction within a defined period, would forward it to the Complaint Resolution Agency.		
5.	Recommendation 5. The ANAO <i>recommends</i> that, after initial consideration by the member's Commanding Officer, all Applications for Redress of Grievance (AROGs) be submitted to the Complaint Resolution Agency. After ensuring that all reasonable administrative and negotiated solutions had been sought, CRA would manage the process including: identifying an appropriate Redress Action Authority; providing advice on the appointment of the Investigating Officer where required; taking responsibility for		

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	Recommendation	Agreement	Relevance
	ensuring the adequacy of the investigation; and providing briefing papers to the relevant RAA.		
6.	Recommendation 6. The ANAO <i>recommends</i> that, to expedite consideration of Applications for Redress of Grievance (AROGs) and to avoid their referral to officers without the authority to provide the redress sought, an AROG be considered by only one Redress Action Authority, independently selected by the Complaint Resolution Agency (with provision for the member to pursue further complaint action with the Defence Force Ombudsman).		
7.	Recommendation 7. The ANAO <i>recommends</i> that, to promote fairness and more effective administration in the Redress of Grievance system, the various processes regarding Applications for Redress of Grievance (including submitting and investigating AROGs and providing information and documents) be made subject to appropriate time limits, with provision for extension of time where the circumstances clearly justify such extension.		
8.	Recommendation 8. The ANAO <i>recommends</i> that, to improve the transparency of the Redress of Grievance system, a redress officer, when informing a member of the decision on his or her Application for Redress of Grievance (AROG), provide the member with a copy of the investigation report on the AROG, unless the investigation has been conducted under the Defence (Inquiry) Regulations.		
9.	Recommendation 8. The ANAO <i>recommends</i> that personnel responsible for deciding grievances explain clearly the reasons for their decision on an AROG to help the member understand the factors considered in reaching the decision.		
10.	Recommendation 10. The ANAO <i>recommends</i> that, to promote consistency in the treatment of Applications for Redress of Grievance (AROGs), the Complaint Resolution Agency establish (subject to cost-effectiveness considerations) a database of AROGs that would record the salient details of significant cases without disclosing the identity of individual complainants to users of the database		

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	Recommendation	Agreement	Relevance
	where the CDF considers that the nature of the complaint renders it appropriate for him to determine the matter. A decision by the CDF that a complaint is not appropriate for his consideration should be conclusive and not itself open to redress or complaint to the Defence Force Ombudsman.		
2.	Recommendation 2. The Review Team acknowledges that some of its proposed changes, if adopted, will necessitate changes to statutory provisions and the development of an appropriate change management / communication strategy. Accordingly, the Review Team <i>recommends</i> that, pending further consideration and implementation of the recommendations of this Review, an interim replacement for DI(G) PERS 34-1 be immediately promulgated that reflects post-DER changes to ROG handling arrangements and incorporates agreed changes arising from the ANAO audit.		
3.	Recommendation 3. The Review Team <i>recommends</i> that it be emphasised in all literature dealing with the ROG system that it is predicated on the principle that problems arising ought to be resolved at the lowest practicable level and submission of a ROG is measure of last resort. Members and their COs should endeavour to resolve problems informally through the normal chain of command and utilise alternative complaint resolution options wherever possible.		
4.	Recommendation 4. The Review Team <i>recommends</i> that, for the purposes of the ROG provisions of the Defence Force Regulations, 'service' be defined as service in the permanent or active reserve forces.		
5.	Recommendation 5. The Review Team <i>recommends</i> that the scope of matters about which a member can submit a grievance be changed to: 'any decision, act or omission relating to the member's service that is considered or perceived to be adverse or detrimental to the member and which is capable of being redressed by a member of the ADF or civilian employee of the Department of Defence'. As a prerequisite to submitting a grievance, a member must have attempted to resolve their problem by other means through the normal chain of command and such efforts must be documented in the grievance.		

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	Recommendation	Agreement	Relevance
6.	Recommendation 6. The Review Team <i>recommends</i> that, in order to avoid duplication of effort, action in relation to a ROG be terminated where the member has applied to have the action reviewed by a Court or Tribunal or has referred the matter to an external review body (eg HREOC, DFO) that opts to investigate the complaint.		
7.	Recommendation 7. The Review Team <i>recommends</i> that there be discretion for a redress delegate who has not previously been involved in the matter of redress to dismiss a grievance on the grounds that it is vexatious, is frivolous or raises issues that have essentially been dealt with in a previous ROG. Guidance for redress delegates on these issues would need to be included in the relevant policy instruction.		
8.	<p>Recommendation 8. The Review Team <i>recommends</i> that complaints of the following types be excluded / prohibited from the ROG system:</p> <ul style="list-style-type: none"> • Complaints regarding a process which seeks to anticipate a decision that hasn't yet been made; • Complaints against the assessments, ratings or gradings in performance evaluation reports except where the member can demonstrate that there were serious defects in the evaluation process; • General complaints against the merits of Defence policies. (NB such complaints would be beyond the scope of the ROG system if the revised definition at Recommendation No. 5 above is adopted); • Complaints regarding a decision not to accept a late ROG or late referral to a higher delegate or to dismiss a ROG in accordance with the Regulations; or 		

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	Recommendation	Agreement	Relevance
	<ul style="list-style-type: none"> Complaints seeking redress in the form of administrative or disciplinary sanctions against another person. 		
9.	<p>Recommendation 9. The Review Team <i>recommends</i> that, where a CO has the authority to grant the redress sought by a member that the CO be required to investigate and determine such complaints in the usual manner. The exception to this would be in circumstances where the complaint is against the CO's action or decision and the CO is not willing to redress the complaint. Instead, the CO must refer the complaint to his or her superior for investigation and decision. Where, however, a CO does not have the authority to grant the redress sought in a ROG, after having explored direct means of obtaining possible resolution, the CO should refer the ROG and any associated documentation gathered at unit level to the CRA for investigation and referral to a senior level redress delegate.</p>		
10.	<p>Recommendation 10. The Review Team <i>recommends</i> that Service Chiefs be retained as a second level investigating authority for ROGs already determined by a CO. All other ROGs would have only one level of (internal) investigation. Where the Service Chief does not have the delegated authority to grant the redress sought by a member, such ROGs should be referred by the CRA to an appropriate delegate (military or civilian) not below 1-star rank / SES Band 1 for decision.</p> <p>NB The provision in the regulations for certain complaints to be referred to VCDF would appear to be redundant as a consequence of the abolition of Headquarters Australian Defence Force and should be reviewed.</p>		
11.	<p>Recommendation 11. The Review Team <i>recommends</i> that the role of the Defence Force Remuneration Tribunal be broadened to allow it to hear complaints against involuntary discharge. The Tribunal would have the power to grant compensation and / or recommend to Service Chiefs that members be re-instated. Complaints against involuntary discharge action and decisions would be</p>		

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	Recommendation	Agreement	Relevance
	excluded from the ROG system under this arrangement.		
12.	Recommendation 12. The Review Team <i>recommends</i> that members be required to submit a ROG no later than 6 months (2 months for a performance evaluation report) after the occurrence of the issue raised in the grievance or the day that the member knew, or ought reasonably to have known, that the offending decision, act or omission in question occurred. A redress delegate should have discretion to accept a complaint that is 'out of time' in exceptional circumstances but only if the redress delegate can foresee some tangible benefit or value in doing so. Complaints about a decision not to accept an 'out of time' complaint should be excluded from the ROG System.		
13.	Recommendation 13. The Review Team <i>recommends</i> that members be required to apply for review by higher authority within 28 days of being notified by the determination of their ROG by their CO, except where there are exceptional circumstances explaining why the application was not able to be made within 28 days.		
14.	Recommendation 14. The Review Team <i>recommends</i> that the revised ROG Instruction should prescribe a 14-day time limit for a decision-maker to provide a statement of reasons following a request by either a member, a CO or the agent of a redress delegate.		
15.	Recommendation 15. The Review Team <i>recommends</i> that the ROG DI(G) be amended to remove the requirement to notify the member every 28 days of the progress of their ROG. A ROG should be acknowledged immediately with further updates as appropriate to the circumstances and on request at reasonable intervals. The stated obligation of redress delegates to determine complaints without undue delay should remain in the DI(G).		
16.	Recommendation 16. The Review Team <i>recommends</i> that Defence consult with the Defence Force Ombudsman on amendment the <i>Ombudsman Act 1976</i> to provide a more appropriate timeframe for		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
	operation of the ROG system before possible intervention by the Ombudsman.		
17.	<p>Recommendation 17. In the context of providing legal assistance to members in the ROG process, the Review Team <i>recommends</i> that:</p> <p>(a) The Defence Legal Office implement measures to ensure that legal officers clearly understand their role in providing assistance to members and that they operate in accordance with Defence policy;</p> <p>(b) The ROG DI(G) be changed to cross-reference with DI(G) PERS 12-1 regarding the provision of assistance to Service personnel and emphasise that the appropriate role of legal officers in the ROG process is to provide guidance on the preparation of ROG applications; and</p> <p>(c) It be made clear in the ROG DI(G) that members are not entitled to;</p> <ul style="list-style-type: none"> • Be formally represented in the ROG process by a legal officer (civilian, Regular or Reservist); or • Use legal officers at Service expense to make representations to the DFO. 		
18.	Recommendation 18. The Review Team <i>recommends</i> that the CRA examine the feasibility of establishing and maintaining a list of recommended investigators with recent military experience who could be engaged by COs or the CRA to conduct investigations.		
19.	Recommendation 19. The Review Team <i>recommends</i> that the current anomaly in the Defence (Inquiry) Regulations be resolved whereby Warrant Officers Class 2 can be appointed to conduct investigation but Chief Petty Officers and Flight Sergeants cannot.		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
20.	Recommendation 20. The Review team <i>recommends</i> that the wording of sub-regulation 69(2) of the D(I)Rs be amended to reflect appropriate current APS terminology relating to APS classifications.		
21.	Recommendation 21. The Review Team <i>recommends</i> that the Minister devolve to redress delegates his power to authorise the release of investigation reports prepared under the authority of the Defence (Inquiry) Regulations where the investigation relates to a ROG.		
22.	<p>Recommendation 22. In order to overcome the long-standing staffing problems with the MR Section of the CRA, the Review Team <i>recommends</i> that the Service Chiefs undertake to:</p> <ul style="list-style-type: none"> • Ensure that personnel posted to permanent positions within the CRA have the requisite skills and abilities to perform the duties of their position; • Endeavour to provide relief manning where permanent positions within CRA are expected to be vacant for more than 2 months; and • Formulate agreements for the on-going provision of adequate Reserve manpower to the CRA. 		
23.	Recommendation 23. The Review Team <i>recommends</i> that the DPE develop an appropriate communication plan to explain the new ROG system to members, including a plain-English brochure.		
24.	Recommendation 24. The Review Team <i>recommends</i> that HDPE commission a working group to facilitate the consultation process and guide implementation of agreed changes. The working group should be chaired by a nominee from Career Management & Policy Branch with representatives from the CRA, DLO and the Service Headquarters. HDPE should report to the CDF and the Secretary at two-monthly intervals on implementation progress.		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
Joint Standing Committee report 2001 (8 recommendations, 1 dissenting opinion)			
1.	Recommendation 1. We recommend that educating Defence personnel of their rights and responsibilities be part of an ongoing program, commencing at recruit training.		
2.	Recommendation 2. We recommend that officers in the direct chain of command and SNCO's responsible for the discipline system in units not be appointed as Equity Officers. The two roles cannot be adequately reconciled.		
3.	Recommendation 3. We recommend that Army establish a pool of investigators held centrally for the conduct of larger investigations. These investigators should not be routinely drawn from outlying areas.		
4.	Recommendation 4. We recommend that Army investigate the feasibility of placing MP's with Federal, State and Territory Police Forces as part of their training.		
5.	Recommendation 5. We further recommend that Army review the conditions for reserve Military Police, with the view to better utilising the investigative skills in the Military Police Reserve units, especially for major cases.		
6.	Recommendation 6. We recommend there be a formal review of the Defence Legal Office, with terms of reference and timetable for completion, and that the review be made public.		
7.	Recommendation 7. We recommend that officers transferring to the Defence legal specialisation on completion of a law degree necessitate relinquishment of rank commensurate with their legal expertise and experience.		
8.	Recommendation 8. We further recommend that legal officer selection boards have a legal officer on		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
	the panel.		
	Recommendation from dissenting report. In light of the recurrence of issues relating to brutality and military justice, and noting the recommendations of the committee's previous report into military justice procedures in the ADF, those dissenting members now strongly recommend that the ADF establish a statutory Office of the Director of Military Prosecutions, for Defence Force Magistrate trials and Courts-Martial (for criminal and quasi criminal matters).		
Burchett report 2001 (55 recommendations)			
1.	Recommendation 1. In relation to the Defence Force Discipline Act training that: Common legal training courses in Disciplinary Law should be produced for Australian Defence Force personnel at all levels as soon as practicable.		
2.	Recommendation 2. In relation to the Defence Force Discipline Act training that: In particular, a course for all officers covering basic legal principles should be introduced.		
3.	Recommendation 3. In relation to the Defence Force Discipline Act training that: the training for officers about to assume command appointments should, for all services, include a component comparable to that presently provided in the case of the Air Force in respect of Disciplinary Law.		
4.	Recommendation 4. In relation to the Defence Force Discipline Act training that: Competency Standards should be devised and introduced for personnel involved in the disciplinary process at the summary level (for example, Defending Officers might be required to complete an interactive module on pleas of mitigation and attend a summary hearing before being available to represent someone).		
5.	Recommendation 5. In relation to the Defence Force Discipline Act training that: Steps should be taken to encourage a closer involvement of junior officers in the disciplinary process.		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance					
6.	Recommendation 6. In relation to the Defence Force Discipline Act training that: the introduction of annual awareness training in military justice issues should be considered.							
7.	Recommendation 7. In relation to the Discipline Officer Scheme: Consideration should be given to making the appointment of a Discipline Officer mandatory in all units.							
8.	Recommendation 8. In relation to the Discipline Officer Scheme: The ranks subject to the Discipline Officer Scheme should be all ranks to and including Captain equivalent.							
9.	Recommendation 9. In relation to the Discipline Officer Scheme: The record of matters dealt with under the Discipline Officer Scheme for an individual member should be discarded not, as at present, upon departure from his or her unit or after twelve months, but upon promotion to a higher rank							
10.	Recommendation 10. In relation to the Discipline Officer Scheme: The period allowed for members to elect to be dealt with by a Discipline Officer should be reduced from 7 days to 1 day, subject to a discretion in the officer who would bring the formal charge (if one were to be brought) to extend the time up to 7 days.							
11.	Recommendation 11. In relation to the Discipline Officer Scheme: The offences to which the Discipline Officer Scheme relates, and also the maximum penalties, should be reviewed if the scheme is extended to higher ranks.							
12.	Recommendation 12. In relation to Extras: The nature, purpose and sphere of extras should be clarified by tri-service guidelines, so as to ensure that they may be lawfully imposed.							
13.	Recommendation 13. In relation to Extras: The guidelines should make it clear that, as a matter of policy, extras are to be regarded as an administrative response that may be appropriate in some cases, falling outside the disciplinary measures established by the <i>Defence Force Discipline Act</i> .							
		Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant

	Recommendation	Agreement	Relevance
14.	Recommendation 14. In relation to Extras: The guidelines should address the questions who may award extras, upon whom they may be imposed, monitoring arrangements, the types of activity covered and the nature of the failure on account of which an order for extras may be made.		
15.	Recommendation 15. In relation to Extras The power to award extras should not be delegated below the rank of Corporal equivalent in respect of subordinates within his or her command.		
16.	Recommendation 16. In relation to Extras: All ranks up to and inclusive of Captain equivalent should be subject to orders for extras made by a superior.		
17.	Recommendation 17. In relation to Utility of punishment: consideration should be given to reviewing: <ul style="list-style-type: none"> (1) the nature of the punishments which may be imposed under the <i>Defence Force Discipline Act</i> in the light of contemporary standards; (2) whether some form of Service oriented community work could usefully be made an alternative sanction; (3) whether the Act should be amended to confer a power, not merely to impose no punishment, but also, for a special reason, to decline to enter a conviction. 		
18.	Recommendation 18. In relation to Utility of punishment: the question be examined whether a separate scale of punishments for Navy members is any longer necessary.		
19.	Recommendation 19. In relation to Utility of punishment: a review be undertaken of the applicability of the present scale of punishments to Reservists who are not on full time service or undergoing periods of continuous training.		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
20.	Recommendation 20. In relation to Time taken for Commencement and review of Summary and other Trials: the feasibility be investigated of securing a "readiness" undertaking from Reserve legal officers offering themselves for Australian Defence Force work.		
21.	Recommendation 21. In relation to Time taken for Commencement and review of Summary and other Trials: A mandatory requirement be introduced for a prosecutor to provide a statement specifying the time taken to bring a matter to trial, together with a statement of the reasons for any delay.		
22.	Recommendation 22. In relation to training charges: Consideration should be given to the establishment by regulation of the concept of a training charge, and to its definition and scope.		
23.	Recommendation 23. In relation to Administrative Consequences and administrative Action in relation to Disciplinary breaches: The policy work currently being undertaken to achieve standardisation of application and outcome of administrative sanctions, should be regarded as requiring an urgent resolution.		
24.	Recommendation 24. In relation to Administrative Consequences and administrative Action in relation to Disciplinary breaches: Steps should be taken to improve the dissemination of information upon the true career effects of convictions under the <i>Defence Force Discipline Act</i> and of various administrative sanctions.		
25.	Recommendation 25. In relation to Equity and diversity Issues: having regard to the repeated comments of NCOs, and particularly junior NCOs, about the influence of training in equity and diversity at initial entry institutions, consideration should be given to providing more balancing emphasis in that training on the obligations of discipline enshrined in the <i>Defence Force Discipline Act</i> .		
26.	Recommendation 26. In relation to Unequal treatment and consistency of punishments: Consideration		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
	location and organisation, required in the modern Defence Force be reviewed.		
34.	Recommendation 34. In relation to Legal Officers at Summary Proceedings: The <i>Defence Force Discipline Rules</i> be amended to provide that a member who desires to be legally represented at a summary trial must first obtain from the proposed Registrar of Courts Martial a certificate that, for a special reason, legal representation is appropriate.		
35.	Recommendation 35. In relation to Legal Officers at Summary Proceedings: Pre-command legal training of commanding officers should include guidance on the factors to be taken into account in deciding whether to grant leave for legal representation at summary trials.		
36.	Recommendation 36. In relation to Need of Commanding Officers to seek legal advice During Trial: Pre-command legal training of commanding officers should include clear guidance on how legal assistance during the course of a summary trial may be sought without prejudice to the rights of the parties.		
37.	Recommendation 37. In relation to Effects of Defence Reorganisation: Command and line management responsibility for the discipline of personnel in joint and integrated organisations, and the dissemination of information about it, be reviewed.		
38.	Recommendation 38. In relation to Effects of Defence Reorganisation: Rationalisation of command and line management responsibility for the discipline of personnel in joint and integrated organisations take account so far as possible of geographic convenience.		
39.	Recommendation 39. In relation to Effects of Defence Reorganisation: Common familiarisation training on military justice issues and civilian disciplinary processes be developed for use in joint and integrated organisations.		

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	Recommendation	Agreement	Relevance					
40.	Recommendation 40. In relation to Investigation Issues: The level of resources available for police investigative work across the three Services be reviewed.							
41.	Recommendation 41. In relation to Investigation Issues: A register of suitable persons to act as Investigating Officers under the <i>Defence (Inquiry) Regulations</i> be developed (as to which see the Role and Functions identified for the Military Inspector General).							
42.	Recommendation 42. In relation to peer group discipline: Specific guidance on the use of peer group discipline be included in pre-command training of COs and in standing orders for training institutions.							
43.	Recommendation 43. In relation to Drug Policy: Section 59 of the <i>Defence Force Discipline Act</i> be reviewed in conjunction with DI(G) PERS 15-2, with a view to the amendment of the legislation to enable military tribunals to deal with charges in respect of small quantities of all appropriate illegal drugs.							
44.	Recommendation 44. In relation to Drug Policy: In the meantime, consideration be given to prosecuting in cases involving cannabis where the civilian police regard the quantity as too small, limiting the military prosecution to the statutory quantity of 25 grams.							
45.	Recommendation 45. In relation to Presumption of Guilt: Greater emphasis should be placed on the concept of a prima facie case in the training of NCOs, WOs and officers in relation to summary proceedings under the <i>Defence Force Discipline Act</i> .							
46.	Recommendation 46. In relation to the presumption of guilt: The training of prosecutors in summary proceedings should emphasise the principle, which civilian prosecutors are required to observe scrupulously, that a prosecutor does not seek a conviction at any price, but with a degree of restraint so as to ensure fairness.							
47.	Recommendation 47. In relation to the Director of Military Prosecutions and Administration of Courts							
		Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant

	Recommendation	Agreement	Relevance
	Martial and Defence Force Magistrate Hearings: An independent Australian Defence Force Director of Military Prosecutions, with discretion to prosecute, be established.		
48.	Recommendation 48. In relation to the Director of Military Prosecutions and Administration of Courts Martial and Defence Force Magistrate Hearings: A Registrar of Courts Martial be established for the Australian Defence Force.		
49.	Recommendation 49. In relation to Keeping things "in House": Guidance be included in (a) Command Directives at all levels, and (b) pre-command training courses, designed to discourage any tendency to conceal potential military justice problems from higher authority.		
50.	Recommendation 50. In relation to the availability of Avenues of Complaint: Consideration be given to reviewing what means (if any) exist for achieving closure on the cases of chronic complainants.		
51	Recommendation 51. In relation to the availability of Avenues of Complaint: particularly the Professional Reporting – The Whistleblower" Scheme Current policy covering treatment of "Whistleblowers" be reviewed as to its applicability to deal with more general military justice issues.		
52	Recommendation 52. In relation to Regional DFDA Units: Consideration be given to the usefulness of establishing a regional DFDA unit in a particular location where the ordinary arrangements are difficult to implement in practice.		
53	Recommendation 53. In relation to Medical issues: General guidance be provided to Commanders (and included in appropriate training courses) concerning the weight to be given to medical certificates, and the course to be taken if there is reason to be doubtful about a particular certificate.		
54.	Recommendation 54. In relation to procedural fairness and Command prerogative: General policy guidance be developed as to the exercise of the command prerogative, and as to the extent and nature		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
	of the observance of the dictates of natural justice which is required in connection therewith.		
55.	<p>Recommendation 55. In relation to Military Inspector General: a Military Inspector General be appointed with the following role and functions:</p> <p><u>Role</u></p> <p>The role of the Military Inspector General is to represent the CDF in providing a constant scrutiny, independent of the ordinary chain of command, over the military justice system in the Australian Defence Force in order to ensure its health and effectiveness; and to provide an avenue by which any failure of military justice may be examined and exposed, not so as to supplant the existing processes of review by the provision of individual remedies, but in order to make sure that review and remedy are available, and that systemic causes of injustice (if they arise) are eliminated.</p> <p><u>Functions</u></p> <p>The functions of the Military Inspector General should be:</p> <p>(a) To investigate, as directed by the CDF, or as may be requested by a Service Chief, such matters as may be referred to the Military Inspector General, or to investigate a matter of his or her own motion, concerning the operation of the military justice system;</p> <p>(b) To provide an avenue for complaints of unacceptable behaviour, including victimisation, abuse of authority, and avoidance of due process where chain of command considerations discourage recourse to normal avenues of complaint;</p> <p>(c) To take action as may be necessary to investigate such complaints, or refer them to an</p>		

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	Recommendation	Agreement	Relevance			
	<p>appropriate authority for investigation, including the military police, civil police, Service or departmental commanders or authorities; and, following any referral, to receive and, if necessary, to report to the CDF upon, the response of the authority to whom the matter was referred;</p> <p>(d) To act as an Appointing Authority for investigations (not including Boards or Courts of Inquiry) under the <i>Defence (Inquiry) Regulations</i>;</p> <p>(e) To maintain a Register of persons who would be suitable to act as members of inquiries or as Investigating Officers;</p> <p>(f) To advise Appointing Authorities under the <i>Defence (Inquiry) Regulations</i> on the conduct and appointment of inquiries;</p> <p>(g) To monitor key indicators of the military justice system for trends, procedural legality, compliance and outcomes, including:</p> <ol style="list-style-type: none"> 1. Service Police investigation reports; 2. Significant administrative inquiries and investigations; 3. Service discipline statistics; 4. Records of significant administrative action taken for disciplinary purposes; 5. Records of Grievances; 6. Reports of unacceptable behaviour, including victimisation, abuse of authority, and avoidance of due process; <p>(h) To conduct a rolling audit by means of spot checks of Unit disciplinary records, procedures,</p>					
Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant

	Recommendation	Agreement	Relevance
	<p>processes, training and competencies relevant to military justice;</p> <p>(i) To promote compliance with the requirements of military justice in the ADF;</p> <p>(j) To liaise with other agencies and authorities with interest in the military justice system in order to promote understanding and co-operation for the common good;</p> <p>(k) To consult with overseas agencies and authorities having similar or related functions;</p> <p>(l) To make to the CDF such reports as may seem desirable or as the CDF may call for;</p> <p>(m) To receive documents which were submitted to this Inquiry and finalise complaints brought to the attention of this Inquiry which may require further action.</p>		
Acumen Alliance audit 2003 (26 recommendations)			
1.	Recommendation 1. That TDLS further instruct Commanders and legal officers in alternative applications of the administrative inquiry options. Instruction could entail a combination of training, briefing sessions and communication (eg, rewriting relevant sections of ADFP 202).		
2.	Recommendation 2. That TDLS provide guidance to Appointing Authorities regarding the skills and experience appointees need to act efficiently and effectively in the various Board positions and contexts. Guidance may entail revision of ADFP 202 and a briefing session for Appointing Authorities prior to the formation of a Board. In the interim, monitoring of appointments as per DGTDLs Directive No. 2/2003 will assist in the selection and appointment of Board members and counsel.		
3.	Recommendation 3. That TDLS provide further guidance to Appointing Authorities in regard to drafting and amending Terms of Reference. Guidance regarding drafting and amending should be principles-based and could entail revising the ADFP 202. In addition, legal officers who assist Appointing		

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	Recommendation	Agreement	Relevance					
	Authorities in drafting Terms also require guidance. TDLS should instruct them appropriately.							
4.	Recommendation 4. That TDLS provide guidance via ADFP 202 in regard to scoping or planning. At minimum, the Appointing Authority and TDLS should be provided with a project plan prior to the commencement of a Board. Appointing Authorities should sight the plan and, preferably, sign off so that it can be used as a basis for performance monitoring and reporting.							
5.	Recommendation 5. That TDLS review the policy in regard to progress reports and monitoring to ensure it provides sufficient authority to the Appointing Authority and also to ensure that Appointing Authorities understand their responsibility in the area of monitoring and reporting.							
6.	Recommendation 6. That TDLS provide data in relation to any costs borne by them for each particular Board of Inquiry to the Appointing Authority for their information.							
7.	Recommendation 7. That sessional fees should not be applied to Board of Inquiry work. The determination may still have relevance for the urgent work for which it was originally created. Boards of Inquiry, however, do not meet those criteria.							
8.	Recommendation 8. That TDLS undertake an examination of alternative remuneration structures to determine more appropriate ways of recompensing Reserve Legal Officers financially affected by their appointment to a Board of Inquiry.							
9.	Recommendation 9. That TDLS establish a process whereby Board members and counsel are briefed regarding the nature of a Board of Inquiry and the respective accountabilities of the Board members, counsels and the Appointing Authority. The briefing should be accompanied by a documented accountability framework and monitoring process.							
10.	Recommendation 10. That, as the sponsor of the process, TDLS establish a process to manage and							
		Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant

	Recommendation	Agreement	Relevance					
	monitor Board performance. Once the process has been established, it should be documented in ADFP202 and appropriate training and briefing in regard to managing and monitoring provided.							
11.	Recommendation 11. That a determination of the resources required to manage and monitor Board performance form part of the establishment of a process to monitor and manage that performance. (NOTE: TDLS is positioned to advise on the resources required to manage and monitor Board performance. The resources required, however, will not necessarily be provided by TDLS. See the first paragraph of the finding above.)							
12.	Recommendation 12. That capturing 'lessons learnt' form a standard phase of the Board process and that the lessons learnt be made available to subsequent Boards. DMAL should be the coordinator of this process and be responsible for using this information to update policy documentation as required.							
13.	Recommendation 13. That further analysis be conducted to create a matrix of the skills and capabilities required to conduct Boards of varying complexity.							
14.	Recommendation 14. TDLS provide guidance to Appointing Authorities and Presidents regarding PAPs, how they can appear and what type of appearance is advisable. Guidance may comprise rewriting ADFP 202 or briefing Appointing Authorities or Presidents during the establishment of the Inquiry.							
15.	Recommendation 15. Where a number of PAPs will be appearing with legal representation, the President and Counsel Assisting are both of appropriate rank and are experienced in managing counsel.							
16.	Recommendation 16. It is recommended that the inherently risky nature of Boards be acknowledged and promoted. The factors contributing to risk should be enumerated and risk mitigation strategies detailed.							
17.	Recommendation 17. It is recommended that guidance be provided in regard to the reducing risk via							
		Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant

	Recommendation	Agreement	Relevance
	the selection of the appropriate Board format or combination of formats. See also Recommendation 1.		
18.	Recommendation 18. That a process be established to select Board members and counsel based on the nature of the incident being investigated. The selection process should form an integral part of the scoping and planning phase		
19.	Recommendation 19. That the resources beyond members and counsel necessary to conduct an efficient and effective Board be specified and guidance issued. Information gathered via a 'lessons learned' process could assist in identifying the resources required.		
20.	Recommendation 20. It is recommended that technical expertise and experience as a serving officer form part of the criteria for appointments to Boards. Legal qualifications or experience should not act as the sole criterion. For complex inquiries, however, the appointment of judges, magistrates or similar as Board President should be considered. Complex inquiries refer to Boards entailing multiple Counsels Representing and likely to arouse extensive public interest or scrutiny.		
21.	Recommendation 21. It is recommended that a cadre of senior officers available to serve in the event of a Board of Inquiry occurring be established. A pool of appropriately skilled members and counsel should be established from which Board or counsel appointments can be drawn. The pool should be open for a two-year period and suitable candidates should have the endorsement of their Service Headquarters, where appropriate.		
22.	Recommendation 22. It is recommended that TDLS develop a resource management strategy that addresses employment preferences for both TDLS and individuals within the organisation.		
23.	Recommendation 23. It is recommended that TDLS continue to develop and maintain the TDLS Personnel Management System (an in-house database of legal officer skills, experience and work		

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	Recommendation	Agreement	Relevance
	preferences). This would supplement other strategies to improve the selection and appointment of BOI members and counsel.		
24.	Recommendation 24. It is recommended that TDLS monitor the implementation of DGTDLs Directive 2/03 and relevant Reserve Legal Officer Standard Operating Procedures and enforce the application of the instructions.		
25.	Recommendation 25. It is recommended that TDLS recognise the significance of any change to work allocation and eligibility practices and develop a change or transition program to assist with the move to the new way of managing the practice.		
26.	Recommendation 26. That TDLS develop a briefing program for Appointing Authorities and their staff and a second program for those appointed to the Inquiry to be given prior to any involvement with a Board of Inquiry.		
Commonwealth Ombudsman's Report 2005			
1.	Recommendation 1. That, for the purposes of the ROG provisions of the Defence Force Regulations, 'service' be defined as service in the permanent or active reserve forces <i>Report of the Australian Defence Force (ADF) Redress of Grievance (ROG) System, Defence Personnel Executive September 2000.</i>		
2.	Recommendation 2. That the scope of matters about which a member can submit a grievance be changed to "any decision, act or omission relating to a member's service that is considered or perceived to be adverse or detrimental to the member and which is capable of being redressed by a member of the ADF or civilian employee of the Department of Defence". As a pre requisite to submitting a grievance, a member must have attempted to resolve their problem by other means through the normal chain of		

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	Recommendation	Agreement	Relevance
	<p>command and such efforts must be documented in the grievance</p> <p><i>Report of the Australian Defence Force (ADF) Redress of Grievance (ROG) System, Defence Personnel Executive September 2000.</i></p>		
3.	<p>Recommendation 3. That, in order to avoid duplication of effort, action in relation to a ROG should be terminated where the member has applied to have the action reviewed by a Court or Tribunal or has referred the matter to an external review body (eg HREOC, DFO) that opts to investigate the complaint</p> <p><i>Report of the Australian Defence Force (ADF) Redress of Grievance (ROG) System Defence Personnel Executive September 2000.</i></p> <p>[The Review suggests that the word ‘terminated’ should be replaced with the phrase ‘suspended pending outcome’].</p>		
4.	<p>Recommendation 4. That complaints of the following types be excluded/prohibited from the ROG system:</p> <ul style="list-style-type: none"> • Complaints regarding a process which seek to anticipate a decision that hasn’t yet been made • Complaints against the assessments, ratings or gradings in performance evaluation reports except where the member can demonstrate that there were serious defects in the evaluation process • Complaints against the assessments, ratings or gradings in performance evaluation reports except where the member can demonstrate that there were serious defects in the evaluation process <p><i>Report of the Australian Defence Force (ADF) Redress of Grievance (ROG) System, Defence Personnel</i></p>		

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	Recommendation	Agreement	Relevance
	<p><i>Executive September 2000.</i></p> <p>[This Review believes that the first category (<i>Complaints regarding a process..</i>) is not an issue. Views differed on the acceptability of the second category (<i>Complaints against assessments...</i>); this is discussed in the section 'Excluding some complaint categories from the ROG process'. The third category is fully supported.]</p>		
5.	<p>Recommendation 5. That, where a CO does not have the authority to grant the redress sought in a ROG, after having explored direct means of obtaining possible resolution, the CO should refer the ROG and any associated documentation gathered at unit level to the CRA for investigation and referral to a senior level redress delegate</p> <p><i>Report of the Australian Defence Force (ADF) Redress of Grievance (ROG) System, Defence Personnel Executive September 2000.</i></p>		
6.	<p>Recommendation 6. That members should be required to submit a ROG no later than 6 months after the occurrence of the issue raised in the grievance, or the day the member knew, or ought reasonably to have known, that the offending decision, act or omission in question occurred. A redress delegate should have the discretion to accept a complaint that is 'out of time' in exceptional circumstances but only if the redress delegate can foresee some tangible benefit or value in doing so</p> <p><i>Report of the Australian Defence Force (ADF) Redress of Grievance (ROG) System, Defence Personnel Executive September 2000.</i></p> <p>[The Review would prefer 6 months, but notes that a period of 12 months is allowed regarding complaints to the Ombudsman under the <i>Ombudsman Act 1976 (Cth)</i>]</p>		

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	Recommendation	Agreement	Relevance
7.	<p>Recommendation 7. In order to overcome the long-standing staffing problems within the Military Redress Section of the CRA, the Service Chiefs should undertake to:</p> <ul style="list-style-type: none"> • Ensure that personnel posted to permanent positions within the CRA have the requisite skills and abilities to perform the duties of their position; • Endeavour to provide relief manning where permanent positions within CRA are expected to be vacant for more than 2 months; and • Formulate agreements for the ongoing provision of adequate Reserve manpower to the CRA <p><i>Report of the Australian Defence Force (ADF) Redress of Grievance (ROG) System, Defence Personnel Executive September 2000.</i></p>		
8.	<p>Recommendation 8. That excluding IG(ADF), most of the 7 Defence complaint areas identified by the Review be brought together under one functional area.</p>		
9.	<p>Recommendation 9. That a common case tracking system or complaints database be established.</p>		
10.	<p>Recommendation 10. That the IGADF take the lead in defining the complaint statistics required for measuring the health of the Military Justice System across complaint areas and that all complaint areas comply with requirements.</p>		
11.	<p>Recommendation 11. That DEO, Army Fair Go Hotline, SUBRIMS, DADRCM, Navy's SOSOP program and any new initiatives in complaint management are managed centrally with a view to ensuring that their operations are complementary. Where feasible, these agencies should be co-located under the same group. Where they cannot be collocated, they be made responsive to the head of the new CRA.</p>		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
12.	Recommendation 12. That a common complaint management information system be developed to manage cases across all avenues of Defence complaint. This system should have the ability to provide information in a form that will support Defence wide reporting including information required by the IG(ADF).		
13.	Recommendation 13. That Navy's initiative, carried out by Systems Command which includes complaint handling in its establishment audit, be adopted by Army and RAAF.		
14.	Recommendation 14. That Defence takes a more strategic approach to the design and integration of its complaint handling systems.		
15.	Recommendation 15. That CRA is given the clear authority to be the driving force and 'centre of excellence' in complaint handling/resolution and neutral evaluation for Defence, and that the Joint Directive be recast accordingly.		
16.	Recommendation 16. That Defence consider the establishment of an expanded complaint resolution business unit, headed by a Director-General or AS-level manager.		
17.	Recommendation 17. That the initial advice proforma in DI(G) PERS 34-1 be expanded to include the additional information in the ROG Initial Advice Form at Annex I: <ul style="list-style-type: none"> • Identity of CO for redress • Is the CO the delegate for the redress sought? • Has this CO previously made a decision in this matter? • Intended IO? 		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
	<ul style="list-style-type: none"> Does the intended IO have the skills and knowledge required to undertake the investigation? Is the IO sufficiently removed from the issue to be impartial? Intended time to completion? Special considerations? Does the unit need any special assistance to progress the ROG? Has ADR been considered? Have all reasonable avenues for resolution without resort to a ROG been explored? 		
18.	Recommendation 18. That CRA adopt the additional role of monitoring and providing advice to COs in potentially difficult cases.		
19.	Recommendation 19. That Defence establish an integrated complaint measurement, analysis and reporting system.		
20.	Recommendation 20. That DCRA develop additional performance data requirements, analysis techniques and formally report the outcomes to Head Defence Personnel Executive and Deputy Service Chiefs monthly at the DPC, and to the Chiefs Of Service Committee (COSC) biannually.		
21.	Recommendation 21. That DCRA with DFO develop a common framework to measure the overall time taken to resolve grievances and each step in the process.		
22.	Recommendation 22. That CRA develop the ability to monitor the time being taken on a complaint from its actual beginning, and through the entire ROG process until completion.		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
23.	Recommendation 23. That IG(ADF) provide KER guidelines to all complaint handling agencies in Defence.		
24.	Recommendation 24. That the current right of referral of a ROG to CDF be retained.		
25.	Recommendation 25. That IG(ADF) take the lead in the conduct of an analysis of needs for complaint information across Defence.		
26.	Recommendation 26. That Defence policy be amended to include a deadline for a member to submit a ROG within 14 days following the issue of a termination notice and that the final decision should be made at least 3 days prior to the termination date.		
27.	Recommendation 27. That IG(ADF) and DCRA closely monitor the outcome of the DFO study into difficult and persistent complainants and implement measures for managing them.		
28.	Recommendation 28. That a new CRA case prioritisation approach be adopted; driven by an objective assessment of impact with criteria to be developed by DCRA.		
29.	Recommendation 29. That a CRA website that allows complainants to track the progress of their ROG be established.		
30.	Recommendation 30. That CDF and DFO consider the opposing opinions on the benefits of introducing a provision to provide complainants with an opportunity to submit why their ROG should be given higher priority status on the CRA case list.		
31.	Recommendation 31. That a Defence grievance handling service charter be developed and published.		
32.	Recommendation 32. That more ROG cases be resolved by employing ADR and administrative resolution, and that statistics should be monitored on the use of flexible means.		
Agreed Agreed in part No response Not agreed Relevant Indirectly relevant Not relevant			

	Recommendation	Agreement	Relevance
33.	Recommendation 33. That CRA adopt an approach that directs the application of best methods to achieve complaint resolution, facilitated by a review and amendment of Joint Directive 2/2003.		
34.	Recommendation 34. That DCRA together with IG(ADF) identify priority areas to be targeted for administrative investigation training.		
35.	Recommendation 35. That CRA presentations to Defence training courses and units be maintained at, at least 2003-4 levels.		
36.	Recommendation 36. That opportunities to include DFO in the CRA information presentations be explored with a view to establishing a joint outreach program.		
37.	Recommendation 37. That a formal procedure to provide feedback to investigating officers and COs be developed by DCRA.		
38.	Recommendation 38. That a pro forma be developed to support formal feedback procedures.		
39.	Recommendation 39. That the feasibility of an online administrative investigation course be examined by Defence.		
40.	Recommendation 40. That a more interventionist approach be taken by CRA in selected cases. That CRA be empowered to nominate the investigating officer or investigate in its own right with agreement of the Service Chief.		
41.	Recommendation 41. That annual assessment of COs includes their performance in grievance management.		
42.	Recommendation 42. That single Service audits of units include an assessment of ROG management and that a copy is passed to the CO's assessing officer.		
		Agreed	Agreed in part
		No response	Not agreed
		Relevant	Indirectly relevant
			Not relevant

	Recommendation	Agreement	Relevance
43.	Recommendation 43. That Defence Education and Training Development Branch (DETD) provide guidance on the level of training that should be achieved on single Service basic and intermediate officer courses.		
44.	Recommendation 44. That the existing backlog of cases within CRA be addressed as a matter of urgency.		
45.	Recommendation 45. That non-military personnel be considered for appointment as CRA military redress officers.		
46.	Recommendation 46. That Reserve case officers be routinely employed on cases from other Services and responsive procedures for flexible transfer of funds between Services are adopted.		
47.	Recommendation 47. That the term 'team leaders' be utilised within CRA in preference to 'cell head' or 'section manager'.		
48.	Recommendation 48. That Director CRA undertakes a project to identify performance measures for CRA case officers.		
49.	Recommendation 49. That a business case relating to CRA resources be developed by Director CRA.		
50.	Recommendation 50. That the Services should assign appropriately skilled personnel for employment at CRA, and that Director CRA be given the opportunity to vet selection.		
51.	Recommendation 51. That CRAs policy of case officers working from home be reviewed to identify the effectiveness and efficiency of this practice.		
52.	Recommendation 52. That the advantages/disadvantages of developing a sub unit of CRA at other geographic locations be examined.		
Agreed Agreed in part No response Not agreed Relevant Indirectly relevant Not relevant			

	Recommendation	Agreement	Relevance
53.	Recommendation 53. That Director CRA should examine the feasibility of CRA section heads being assigned regular casework.		
54.	Recommendation 54. That DI(G)PERS 34-1 be amended to clearly indicate that where COs and/or a decision authority have been party to a decision in a formal adverse administrative action, any ROG that is raised in regard to these matters be forwarded immediately to CRA for investigation and decision by a Service Chief.		
55.	Recommendation 55. That in every case, a full statement of reasons must accompany a termination notice.		
56.	Recommendation 56. That DCRA develop and publish plain-English guide(s) to making a complaint, and managing a complaint, that complement the DI(G)PERS 34-1.		
57.	Recommendation 57. That DCRA develop a method for identifying and communicating information about case precedents to stakeholders including COs (externally) and CRA case officers (internally), in order to avoid excessively complex briefs and duplication of earlier research efforts.		
58.	Recommendation 58. DCRA develop a paper for consideration by COSC that recommends the delegation of powers in some cases where: <ul style="list-style-type: none"> • The Service Chief /CDF does not have the delegation to grant the redress requested, and • It will facilitate a fair and quick resolution of the complaint 		
59.	Recommendation 59. That Defence should establish complaint handling principles common to all categories of complaint.		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
60.	Recommendation 60. That Defence should seek amendment to Part XV of <i>Defence Force Regulations 1952</i> to reflect current practice, delegations and referral, and, where necessary, to give effect to the other recommendations made in this report.		
61.	Recommendation 61. That Director CRA closely monitor and report emerging trends in the number of cases where formal legal advice is sought during the resolution of ROG cases at Service Chief and CDF level, and prior to responding to DFO requests.		
62.	Recommendation 62. That Director CRA obtain indicative information on the extent of legal advice obtained during unit level ROGs in order to determine if this is causing undue delay.		
63.	Recommendation 63. That a legal officer be attached to CRA if it can be demonstrated that it would reduce the delays arising from CRA obtaining legal advice elsewhere.		
64.	Recommendation 64. That the <i>DI(G)PERS 34-3 Inquiries by the Commonwealth Ombudsman and the Defence Force Ombudsman affecting the Department of Defence and the Australian Defence Force</i> (dated 3 May 1996) be urgently updated to reflect current best practice, including DFO requirements to see original documents concerning a decision that is being contested. The amendments should clearly prescribe practices, responsiveness, and principles for dealing with DFO complaints and requests.		
65.	Recommendation 65. A DFO/CRA memorandum of understanding, or similar service level agreement be developed to optimise cooperative practices and policies between these agencies.		
66.	Recommendation 66. That CRA/DFO establish an agreed forward program of common training, joint information sessions and other measures designed to facilitate better understanding and awareness between CRA and DFO staff.		
67.	Recommendation 67. That monthly meetings between CRA and DFO have an agenda, allocate tasks,		
Agreed Agreed in part No response Not agreed Relevant Indirectly relevant Not relevant			

	Recommendation	Agreement	Relevance
	and closely monitor task completion, with meeting minutes provided to the Senior Assistant Ombudsman (Defence) and HDPE.		
68.	Recommendation 68. That DFO/CRA explore the possibility of common categorisation of cases and measurement of time taken to resolve complaints.		
69.	Recommendation 69. That HDPE prepare for COSC consideration a statement of Defence's principles on the management of complaints.		
70.	Recommendation 70. That once established, Defence's principles on the management of complaints be made available to all members of the ADF.		
71.	Recommendation 71. That a Defence wide implementation team, including a representative from DFO be formed by HDPE, and that it routinely report progress on both the implementation of recommendations and the improvements in performance in timeliness of complaint resolution in Defence, to the DPC.		
72.	Recommendation 72. That the Steering Committee reconvenes by December 2005 and reports to CDF and the Ombudsman on the progress of implementing the Review recommendations.		
Senate Committee report 2005 (40 recommendations)			
1.	Recommendation 1. The committee recommends that all suspected criminal activity in Australia be referred to the appropriate State/Territory civilian police for investigation and prosecution before the civilian courts.		
2.	Recommendation 2. The committee recommends that the investigation of all suspected criminal activity committed outside Australia be conducted by the Australian Federal Police.		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
3.	Recommendation 3. The committee recommends that the Service police should only investigate a suspected offence in the first instance where there is no equivalent offence in the civilian criminal law.		
4.	Recommendation 4. The committee recommends that, where the civilian police do not pursue a matter, current arrangements for referral back to the service police should be retained. The service police should only pursue a matter where proceedings under the DFDA can be regarded as substantially serving the purpose of maintaining and enforcing Service discipline.		
5.	Recommendation 5. The committee recommends that the ADF increase the capacity of the Service police to perform their investigative function by: <ul style="list-style-type: none"> • Fully implementing the recommendations contained in the Ernst & Young Report; • Encouraging military personnel secondments and exchanges with civilian police authorities; • Undertaking a reserve recruiting drive to attract civilian police into the Defence Forces; • Increasing participation in civilian investigative training courses, and • Designing clearer career paths and development goals for military police personnel. 		
6.	Recommendation 6. The committee recommends that the ADF conduct a tri-service audit of current military police staffing, equipment, training and resources to determine the current capacity of the criminal investigations service. This audit should be conducted in conjunction with a scoping exercise to examine the benefit of creating a tri-service criminal investigation unit.		
7.	Recommendation 7. The committee recommends that all decisions to initiate prosecutions for civilian equivalent and Jervis Bay Territory offences should be referred to civilian prosecuting authorities.		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
8.	Recommendation 8. The committee recommends that the Director of Military Prosecutions should only initiate a prosecution in the first instance where there is no equivalent or relevant offence in the civilian criminal law. Where a case is referred to the Director of Military Prosecutions, an explanatory statement should be provided explaining the disciplinary purposes served by pursuing the change.		
9.	Recommendation 9. The committee recommends that the Director of Military Prosecutions should only initiate prosecutions for other offences where the civilian prosecuting authorities do not pursue a matter. The Director of Military Prosecutions should only pursue a matter where proceedings under the DFDA can reasonably be regarded as substantially serving the purpose of maintaining or enforcing Service discipline.		
10.	Recommendation 10. The committee recommends that the Government legislate as soon as possible to create the statutorily independent Office of Director of Military Prosecutions.		
11.	Recommendation 11. The committee recommends that the ADF conduct a review of the resources assigned to the Office of the Director of Military Prosecutions to ensure it can fulfil its advice and advocacy functions and activities		
12.	Recommendation 12. The committee recommends that the ADF review the training requirements for the Permanent Legal Officers assigned to the Office of the Director of Military Prosecutions, emphasising adequate exposure to civilian courtroom forensic experience.		
13.	Recommendation 13. The committee recommends that the ADF act to raise awareness and the profile of the Office of the Director of Military Prosecutions within the Army, Navy and Air Force		
14.	Recommendation 14. The committee recommends that the Director of Military Prosecutions be appointed at one star rank.		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
15.	Recommendation 15. The committee recommends that the remuneration of the Director of Military Prosecutions be adjusted to be commensurate with the professional experience required and prosecutorial function exercised by the office-holder		
16.	Recommendation 16. The committee recommends that all Permanent Legal Officers be required to hold current practising certificates.		
17.	Recommendation 17. The committee recommends that the ADF establish a Director of Defence Counsel Services.		
18.	Recommendation 18. The committee recommends the Government amend the DFDA to create a Permanent Military Court capable of trying offences under the DFDA currently tried at the Court Martial or Defence Force Magistrate Level.		
19.	Recommendation 19. The Permanent Military Court to be created in accordance with Chapter III of the Commonwealth Constitution to ensure its independence and impartiality. <ul style="list-style-type: none"> Judges should be appointed by the Governor-General in Council; Judges should have tenure until retirement age. 		
20.	Recommendation 20. The committee recommends that Judges appointed to the Permanent Military Court should be required to have a minimum of five years recent experience in civilian courts at the time of appointment.		
21.	Recommendation 21. The committee recommends that the bench of the Permanent Military Court include judges whose experience combines both civilian legal and military practice.		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance					
22.	Recommendation 22. The committee recommends the introduction of a right to elect trial before the Permanent Military Court for summary offences.							
23.	Recommendation 23. The committee recommends the introduction of a right of appeal from summary authorities to the Permanent Military Court.							
24.	Recommendation 24. In line with Australian Standard AS 8004-203, Whistleblower Protection Programs for Entities, the committee recommends that: <ul style="list-style-type: none"> the ADF's program designed to protect those reporting wrongdoing from reprisals be reviewed regularly to ensure its effectiveness; and there be appropriate reporting on the operation of the ADF's program dealing with the reporting of wrongdoing against documented performance standards (see recommendation25). 							
25.	Recommendation 25. The committee recommends that, in its Annual Report, the Department of Defence include a separate and discrete section on matters dealing with the reporting of wrong doing in the ADF. This section is to provide statistics on such reporting including a discussion on the possible under reporting of unacceptable behaviour The purpose is to provide the public, members of the ADF and parliamentarians with sufficient information to obtain an accurate appreciation of the effectiveness of the reporting system in the ADF.							
26.	Recommendation 26. The committee recommends that the Defence (Inquires) Manual include at paragraph 2.4 a statement that quick assessments while mandatory are not to replace administrative inquiries.							
27.	Recommendation 27. The committee recommends that the language in the Administrative Inquiries Manual be amended so that it is more direct and clear in its advice on the selection of an investigating							
		Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant

	Recommendation	Agreement	Relevance
	officer.		
28.	<p>Recommendation 28. The committee recommends that the following proposals be considered to enhance transparency and accountability in the appointment of investigating officers:</p> <ul style="list-style-type: none"> • Before an inquiry commences, the investigating officer be required to produce a written statement of independence which discloses professional and personal relationships with those subject to the inquiry and with the complainant. The statement would also disclose any circumstances, which would make it difficult for the investigating officer to act impartially. • This statement to be provided to the appointing authority, the complainant and other persons known to be involved in the inquiry. • A provision to be included in the Manual that would allow a person involved in the inquiry process to lodge with the investigating officer and the appointing officer an objection to the investigating officer on the grounds of a conflict of interest and for these objections to be acknowledged and included in the investigating officer's report. • The investigating officer be required to make known to the appointing authority and potential conflict of interest that emerges during the course of the inquiry and to withdraw from the investigation. • The investigating officer's report to include his or her statement of independence and any record of objections raised about his or her appointment and for this section of the report to be made available to all participants in the inquiry. 		
29.	<p>Recommendation 29. The committee makes the following recommendation –</p> <p>(a) The committee recommends that:</p>		
Agreed Agreed in part No response Not agreed Relevant Indirectly relevant Not relevant			

	Recommendation	Agreement	Relevance
	<ul style="list-style-type: none"> • the Government establish an Australian Defence Force Administrative Review Board (ADFARB); • the ADFARB to have a statutory mandate to review military grievances and to submit its findings and recommendations to the CDF; • the ADFARB to have a permanent full-time independent chairperson appointed by the Governor-General for a fixed term; • the chairperson, a senior lawyer with proven administrative law/policy experience, to be the chief executive officer of the ADFARB and have supervision over and direction of its work and staff; • all ROG and other complaints be referred to the ADFARB unless resolved at the unit level or after 60 days from lodgement; • the ADFARB be notified within five days of the lodgement of an ROG at unit level with 30 days progress reports to be provided to the ADFARB; • the CDF be required to give a written response to ADFARB findings/recommendations; • if the CDF does not act on a finding or recommendation of the ADFARB, he or she must include the reasons for not having done so in the decision respecting the disposition if the grievance or complaint; • the ADFARB be required to make an annual report to Parliament. <p>(b) The committee recommends that this report</p>		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
	<ul style="list-style-type: none"> • contain information that will allow effective scrutiny of the performance of the ADFARB; • provide information on the nature of the complaints received, the timeliness of their adjudication, and their broader implications for the military justice system-the Defence Force Ombudsman’s report for the year 2000-01 and 2001-02 provides a suitable model; and • comment on the legal and training of staff in the ADFARB and the adequacies of its budget and resources for effectively performing its functions. <p>(c) The committee recommends that in drafting legislation to establish the ADFARB, the Government give close attention to the Canadian National Defence Act and the rules of procedures governing the Canadian National Grievance Board with a view to using these instruments as a model for the ADFARB. In particular, the committee recommends that the conflict of interest rules of procedure be adopted. They would require:</p> <ul style="list-style-type: none"> • A member of the board to immediately notify the chairperson, orally or in writing, of any real or potential conflict of interest, including where the member, apart from any functions as a member, has or had any personal, financial or professional association with the grievor; and • Where the chairperson determines that the Board member has a real or potential conflict of interest, the Chairperson is to request the member to withdraw immediately from the proceedings, unless the parties agree to be heard by the member and the Chairperson permits the member to continue to participate in the proceedings because the conflict will not interfere with a fair hearing of the matter. <p>(d) The committee further recommends that to prevent delays in the grievance process, the ADF</p>		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
	<p>impose a deadline of 12 months on processing a redress of grievance from the date it is initially lodged until it is finally resolved by the proposed ADFARB. It is to provide reasons for any delays in its annual report.</p> <p>(e) The committee also recommends that the powers conferred on the ADFARB be similar to those conferred on the CFGB. In particular:</p> <ul style="list-style-type: none"> the power to summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath or affirmation and to produce any documents and things under control that it considers necessary to the full investigation and consideration of matters before it; and although, in the interest of individual privacy, hearings are held in-camera, the chairperson to have the discretion to decide to hold public hearings, when it is deemed the public interest so requires. <p>(f) The committee recommends that the ADFARB take responsibility for and continue the work of the IGADF including:</p> <ul style="list-style-type: none"> improving the training of investigating officers; maintaining a register of investigating officers, and developing a database of administrative inquiries that registers and tracks grievances including the findings and recommendations of investigations. <p>(g) To address a number of problems identified in administrative inquiries at the unit level notably</p>		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
	<p>conflict of interest and fear of reprisal for reporting a wrongdoing or giving evidence to an inquiry- the committee recommends that the ADFARB receive reports and complaints directly from ADF members where:</p> <ul style="list-style-type: none"> the investigating officer in the chain of command has a perceived or actual conflict of interest and has not withdrawn from the investigation; the person making the submission believes that they, or any other person, may be victimised, discriminated against or disadvantaged in some way if they make a report through the normal means; or the person has suffered or has been threatened with adverse action on account of his or her intention to make a report or complaint or for having made a report or complaint. <p>(h) The committee further recommends that an independent review into the performance of the ADFARB and the effectiveness of its role in the military justice system be undertaken within four years of its establishment.</p>		
30	Recommendation 30. The committee recommends that the Government provide funds as a matter of urgency for the establishment of a task force to start work immediately on finalising grievances that have been outstanding for over 12 months		
31	Recommendation 31. The committee recommends that the language used in paragraph 7.56 of the Defence (Inquiry) Manual be amended so that the action becomes mandatory.		
32.	Recommendation 32. The committee recommends that the wording of paragraph 7.49 be rephrased to reflect the requirement that a member who comes before the Board late in the proceedings will be		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
	allowed a reasonable opportunity to familiarise themselves with the evidence that has already been given.		
33.	Recommendation 33. The committee recommends that the wording of Defence (Inquiry) Regulation 33 be amended to ensure that a person who may be affected by an inquiry conducted by a Board of Inquiry will be authorised to appear before the Board and will have the right to appoint a legal practitioner to represent them. Further that a regulation be promulgated by the ADF that a person who has died as a result of an incident under investigation by a BOI will be entitled to legal representation.		
34.	Recommendation 34. The committee recommends that: <ul style="list-style-type: none"> • all notifiable incidents, including suicide, accidental death or serious injury be referred to the ADFARB for investigation/inquiry; • the Chairperson of the ADFARB be empowered to decide on the manner and means of inquiring into the cause of such incidents (the Minister for Defence would retain absolute authority to appoint a Court of Inquiry should he or she deem such to be necessary); • the Chairperson of the ADFARB be required to give written reasons for the choice of inquiry vehicle; • the Government establish a military division of the AAT to inquire into major incidents referred by the ADFARB for investigation; and • the CDF be empowered to appoint a Service member or members to assist any ADFARB investigator or AAT inquiry 		
35.	Recommendation 35. Building on the report by the Australian Law Reform Commission, <i>Principled Regulation: Federal Civil and Administrative Penalties in Federal Jurisdiction</i> , the committee		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance					
	recommends that the ADF commission a similar review of its disciplinary and administrative systems.							
36.	Recommendation 36. The committee recommends that the committee's proposal for a review of the offences and penalties under the Australian military justice system also include in that review the matter of double jeopardy.							
37.	<p>Recommendation 37. The committee recommends that the ADF submit an annual report to the Parliament outlining (but not limited to):</p> <p>(a) The implementation and effectiveness of reforms to the military justice system, either in light of the recommendations of this report or via other initiatives.</p> <p>(b) The workload and effectiveness of various bodies within the military justice system, such as but not limited to;</p> <ul style="list-style-type: none"> • Director of Military Prosecutions • Inspector General of the ADF • The Service Military Police Branches • RMJ/CJA • Head of Trial Counsel • Head of ADR. 							
38.	Recommendation 38. To ensure that the further development and implementation of measures designed to improve the care and control and rights of minors in the cadets are consistent with the highest standards, the committee suggests that the ADF commission an expert in the human rights of							
		Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant

	Recommendation	Agreement	Relevance
	children to monitor and advise the ADF on its training and education programs dealing with cadets.		
39.	Recommendation 39. The committee recommends that the ADF take steps immediately to draft and make regulations dealing with the Australian Defence Force Cadets to ensure that the rights and responsibilities of Defence and cadet staff are defined		
40.	Recommendation 40. The committee recommends that further resources be allocated to the Australian Defence Force Cadets to provide for an increased number of full-time, fully remunerated administrative positions across all three cadet organisations. These positions could provide a combination of coordinated administrative and complaint handling support.		
Investigative Capability Audit 2006 (97 recommendations)			
1.	<p>Recommendation 1. The ADF should adopt one definition of a SP investigation and reflect that in all relevant policy and doctrine, whether Departmental or ADF. The proposed definition is:</p> <p><i>An inquiry into matters involving ADF members or Defence Civilians and the collection and presentation of relevant material to a standard acceptable for use, if required, by competent ADF and civilian authorities.</i></p>		
2.	Recommendation 2. Action be taken to ensure consistency between the different sources of policy on ADF aircraft crash investigation.		
3.	Recommendation 3. CDF decide whether it is appropriate to empower civilian investigators of non-ADF Defence organisations to investigate ADF people for alleged breaches of the DFDA.		
4.	Recommendation 4. The ADO should adopt a common investigation standard promulgated in one Defence investigation policy to be complied with by all Defence Investigative Authorities (DIAs) and all		

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	Recommendation	Agreement	Relevance
	their investigators.		
5.	Recommendation 5. Those ADF members empowered to initiate investigations and inquiries receive formal familiarisation with the types and methods available to them.		
6.	Recommendation 6. Each Service review and clarify the function and roles of its SP organisation		
7.	Recommendation 7. Action be taken to dispel the strong perception that exists amongst SP and some ADF officers that special forces units and some infantry units are exempt from ADF disciplinary policy and processes.		
8.	Recommendation 8. Action continue to ensure that the ODMP is provided with sufficient numbers of qualified and experienced staff		
9.	Recommendation 9. The training of ADF commanders and commanding officers at all levels must emphasise: <ul style="list-style-type: none"> the importance of high quality SP investigations to the maintenance of discipline and the delivery of military justice; their responsibilities to support the conduct of investigations; and the consequences of impeding or obstructing an SP investigation. 		
10.	Recommendation 10. Signs at the entrance to ADF units be amended to remove any reference to a need for Service or civilian police to report to unit guard houses		
11.	Recommendation 11. Protocols should be developed between investigators and Service personnel posting authorities to ensure that the timeliness of SP investigations is not jeopardised by the posting or		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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	Recommendation	Agreement	Relevance
	discharge of ADF members while investigation or prosecution work involving them is in progress		
12.	Recommendation 12. In the interest of focussing effort on major investigations, SP investigators be given the discretion to prioritise and choose not to investigate, but to simply record, minor, 'one off' offences, where a successful conviction would be unlikely to justify the time, effort and other resources involved in the investigation.		
13.	Recommendation 13. Only in exceptional cases should SP investigators investigate matters of minor indiscipline more properly dealt with by commanders and their staffs.		
14.	Recommendation 14. An ADF policing plan be developed.		
15.	Recommendation 15. Use of the Discipline Officer scheme be mandatory in all units except where grounds not to do so have been identified and explained and approved by the relevant Service Chief.		
16.	Recommendation 16. The PM-ADF and the ODMP develop guidance for SP to use in the preparation of briefs of evidence to a standard acceptable for use by competent ADF and civilian authorities.		
17.	Recommendation 17. Urgent action be taken to prepare and make available to all ADF investigative agencies and their operatives, one common source of investigation policy published under the signatures of the CDF and Secretary and binding on all agencies. The policy should in so far as is possible be based on the Australian Government Investigation Standards (AGIS) 2003 and Australian Federal Police (AFP) investigation standards and be available in one document, separate from and not to be confused with, investigation procedures and techniques that should be published elsewhere.		
18.	Recommendation 18. The PM-ADF be made responsible and accountable for the development and maintenance of ADO investigation policy and doctrine.		

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	Recommendation	Agreement	Relevance
19.	Recommendation 19. The one common source of ADO investigation policy should contain a direction to the effect that: <i>“Without exception, Notifiable Incidents are to be reported simultaneously to Service police and the appropriate chain of command. Service police are to inform civilian police and other Defence Investigative Authorities as appropriate.”</i>		
20.	Recommendation 20. The ADO prohibit in its investigation policy and procedures any Service or other organisation-centric exclusions.		
21.	Recommendation 21. ADO investigation policy and doctrine be of sufficient specificity and clarity to negate the need for local interpretation and expansion by subordinate commanders.		
22.	Recommendation 22. There should only be one extant version of ADFP 06.1.4 – <i>Administrative Inquiries Manual</i> .		
23.	Recommendation 23. Investigation policy the emphasis be placed on ensuring that incidents are handled lawfully, ethically and professionally and that everything else, including informing superiors, military or civilian, is secondary.		
24.	Recommendation 24. The purpose of a QA be defined as being <i>“... to assess rapidly the then known facts of an incident and decide what is the proper course of action to be taken in response to it”</i> .		
25.	Recommendation 25. ADF Quick Assessment policy should be published separate from ADFP 06.1.4. It should be applicable to all matters whether administrative or otherwise and its purpose should be stated as being <i>“to assess rapidly the then known facts of an incident and decide what is the proper course of action to be taken in response to it”</i> .		
26.	Recommendation 26. The ADO adopt a new QA policy along the lines of that proposed at Attachment 1 to Chapter 4 of this report. <i>(Note - the proposed new policy has already been circulated to relevant</i>		

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	Recommendation	Agreement	Relevance
	<i>areas for comment.)</i>		
27.	Recommendation 27. 'Context management' not be part of QA policy.		
28.	Recommendation 28. Defence review the DFDA.		
29.	Recommendation 29. The ADF explore the exceptionally powerful provisions of the Law Enforcement (AFP Professional Standards and Related Matters) Act 2006, and the complementary, internal measures to distinguish between levels of misconduct and to speed up their disposition, with a view to introducing similar legislation for the ADF.		
30.	Recommendation 30. In parallel with development of one Defence investigations policy, DI(G) ADMIN 45-2 - <i>Reporting and Investigation of Alleged Offences within the Australian Defence Organisation</i> be reviewed and repromulgated to focus on the <i>reporting</i> of offences, and to reflect the establishment of the PM-ADF position and decisions to be made by CDF as to which DIA will investigate offences under the DFDA.		
31.	Recommendation 31. The [Defence Investigations Technical Instructions] DITI should not be revised. As soon as the common investigation policy and procedures are prepared and made available throughout the ADF, the DITI be cancelled.		
32.	Recommendation 32. The ADO adopt the definitions and standards set for the classification of reported offences by the Australian Bureau of Statistics through the National Centre for Crime and Justice Statistics (NCCJS) and the National Crime Statistics Unit (NCSU).		
33.	Recommendation 33. Development of DPSMS Stage 2 conform to NCSU requirements.		
34.	Recommendation 34. Service Police and investigator training needs be reviewed to emphasise and		

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	Recommendation	Agreement	Relevance
	reinforce the basic core skills and competencies of policing. These include the taking of statements from witnesses, interviewing suspects and offenders, and the rules governing the admissibility of evidence, including the value and use of exculpatory as well as inculpatory evidence.		
35.	Recommendation 35. The DPTC development wing be staffed to incorporate an effective research capability that will permit Service Police curricula to be amended in a timely manner to reflect changes in Australian law and policing practice.		
36.	Recommendation 36. The police training wing of the RAAF SFS should close and all ADF Service Police and investigator training, except needs based refresher training, be conducted at the DPTC.		
37.	Recommendation 37. DPTC achieve best practice standard and Service Police leadership in all Services should encourage, demand and enforce adherence to that standard amongst all Service Police.		
38.	Recommendation 38. DPTC develop a refresher module for investigators that could be offered at the DPTC and at concentration locations around Australia in order to maintain a high common standard of investigator professional knowledge.		
39.	Recommendation 39. Consideration should be given to conducting refresher training by distance learning means.		
40.	Recommendation 40. Consideration should be given to affiliating the DPTC with a credible civilian law enforcement teaching institution such as Charles Sturt University.		
41.	Recommendation 41. The proper care and management of incident and crime scenes, at least in terms of basic protection and preservation techniques, ought to be an element of all pre-command training courses in the ADF and be reinforced periodically during career advancement.		

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	Recommendation	Agreement	Relevance
42.	Recommendation 42. The ADF renew or develop formal MOU with the AFP, principally, and also State and Territory police on the attendance of Service Police on relevant, accredited training courses as an essential supplement to DPTC training and to improve professional competencies and advancement prospects.		
43.	Recommendation 43. Attachments to civilian policing organisations be reserved for Service Police personnel only and be coordinated by the PM ADF rather than by the Service personnel organisations.		
44.	Recommendation 44. The PM ADF be appointed the Training Requirements Authority (TRA) for all ADF investigator training courses and for the investigation element of all other courses including Service Police courses, staff colleges, pre-command training and leadership and management training.		
45	Recommendation 45. Navy and Air Force identify and begin preparing suitable officers to command the DPTC in due course, and share a proportional load of the Centre's trainer liability.		
46.	Recommendation 46. When the Commandant DPTC is an Army officer he should not be 'double hatted' as the Head of Corps of the RACMP. The current commandant should divest himself of this role as soon as possible in order to permit him to concentrate on renewing and reinvigorating Service Police training.		
47.	Recommendation 47. Service Police personnel posted to DPTC as instructors be screened to ensure that they have the skills and attributes required for such duties.		
48.	Recommendation 48. Fill the ADF staff vacancies at the DPTC.		
49.	Recommendation 49. CDF's Directive establishing the DPTC be rewritten to incorporate the changes proposed by this audit report and be repromulgated. The new CDF Directive for the DPTC should incorporate specific Service Police training reform objectives to be achieved by the Commandant by		

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	Recommendation	Agreement	Relevance
	specified times during his appointment.		
50.	Recommendation 50. Navy and Air Force senior leadership become more involved with the DPTC.		
51.	Recommendation 51. A formal and funded ADF Investigator Development Program should be developed and coordinated by the PM-ADF with the assistance of Service personnel authorities.		
52.	Recommendation 52. ADF commanders of all ranks be informed that a Service Police [member] of any rank who has undergone scene of incident and crime scene management training at the DPTC is more qualified than they to assess and control a crime or incident scene.		
53.	Recommendation 53. All Service Police and all other ADF people be taught and understand that knowing what <i>not</i> to do at an incident or crime scene is equally important as knowing what to do.		
54.	Recommendation 54. PM ADF establish a feedback loop between his office, ODMP and DPTC to, inter alia, facilitate improvement in the standard of briefs of evidence.		
55.	Recommendation 55. A consistent application of additional administrative support to the ADF investigative capability be made in order to help improve their timeliness		
56.	Recommendation 56. While also taking action to improve the recruitment and retention of investigators, the thrust of reform be on improving the effectiveness and efficiency of the existing workforce.		
57.	Recommendation 57. The ADF investigative capability be provided with information technology support that aids in the planning, execution, management, quality control and periodic evaluation of investigations and operations. A new system must: allow interviews, statements, photographic and graphic material, and exhibit identification and tracking, formatted into a brief of evidence suitable for transmission to the ODMP or other recipient and cater for more sophisticated link analysis in relation to		

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	Recommendation	Agreement	Relevance
	single, multiple and related incidents and events, offences, people of interest (suspects, offenders, and associates), witnesses, vehicles, addresses, telephone numbers, and other data highly relevant to operations.		
58.	Recommendation 58. Defence proceed with the Stage 2 upgrade of DPSMS as a matter of urgency.		
59.	Recommendation 59. An experienced Service Police member be nominated to assist in the development of DPSMS Stage 2.		
60.	Recommendation 60. DPTC become a centre of excellence in DPSMS instruction. To avoid the detrimental effects of ADF posting 'churn', appropriately experienced and trained civilians should provide DPSMS training at the DPTC. Action be taken now to recruit, train and appoint to appropriate DPTC civilian DPSMS instructors.		
61.	Recommendation 61. Analysts Notebook be funded by DPSMS Stage 2 and made available to all ADO investigators.		
62.	Recommendation 62. ADFIS be established outside the Service chains of command answerable directly to CDF through its commander the PM-ADF, as the most effective, efficient and economic future use of ADF investigative resources.		
63.	Recommendation 63. Any Service plans to reduce existing investigator establishment positions or staffing levels, by means of the Army Personnel Establishment Plan (APEP) for example, should be cancelled and posting priority should be given to staffing the ADFIS.		
64.	Recommendation 64. Review the ADF's need for garrison policing.		
65.	Recommendation 65. The draft CDF Directive at Attachment 1 to Chapter 7 of this report be used to		

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	Recommendation	Agreement	Relevance
	establish the ADFIS.		
66.	Recommendation 66. The role of the ADFIS be established as: <i>“to assist the CDF to maintain ADF discipline through the lawful, ethical and effective investigation of matters involving ADF members, independent of Service chains of command.”</i>		
67.	Recommendation 67. The functions of the ADFIS be established as to: (a) “Inquire into matters involving ADF members and Defence Civilians and collect relevant material to a standard acceptable for use, if required, by competent ADF and civilian authorities. (b) Keep CDF informed of results of, and trends in, ADF discipline matters. (c) Maintain a police intelligence capability to support investigations and operations and provide effective crime prevention and detection measures. (d) Monitor developments in Australian civil and allied military law enforcement in order to adjust ADF policy, training and procedures as required to maintain best investigative practice.”		
68.	Recommendation 68. ADFIS investigators be empowered to investigate any matter within the jurisdiction of the DFDA and all other Service Police who have completed the Service Police Basic Course and/or the Military Police Investigations Course, and non-Service Police SNCO or officers appointed under Section 101 of the DFDA, be limited to the investigation of: insubordination, failure to comply, absence without leave, creating a disturbance, prejudicial behaviour, disobedience, negligent performance of duty, and insulting or provocative words.		
69.	Recommendation 69. ADFIS workforce should be comprised of suitably qualified ADF investigators and suitably qualified civilians, either Defence APS members or Professional Service Providers, all		

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	Recommendation	Agreement	Relevance
	engaged under suitable employment terms in order to undertake investigations.		
70.	Recommendation 70. The ADFIS be commanded by the PM ADF and his duties be as described in the draft duty statement at Attachment 2 to Chapter 7 of this report.		
71.	Recommendation 71. CDF approach the Commissioner of the AFP to identify and obtain the services of a suitably qualified and experienced AFP member to advise the PM-ADF in the implementation of the agreed recommendations of this audit report.		
72.	Recommendation 72. ADFIS incorporate a Major Investigations Team (MIT) comprised of highly qualified and experienced investigators with the primary role of conducting major, complex and sensitive investigation.		
73.	Recommendation 73. ADFIS base its professional policing standards on those of Australian law enforcement agencies.		
74.	Recommendation 74. ADFIS introduce a Quality Assurance Review and Reporting regime to ensure the quality and standard of its output.		
75.	Recommendation 75. All appropriate ADF training and education include content aimed at generating amongst ADF officers an acknowledgement that an effective and efficient Service Police investigative capability is an essential aid to them in fulfilling their responsibility to maintain discipline amongst those ADF members they command.		
76.	Recommendation 76. ADF officers be informed that when a QA suggests to them that a serious Service or civilian offence may have been committed they no longer have any choice of action – they must refer the matter to Service Police forthwith, who will then arrange for civilian police involvement where necessary. This content should stipulate that, in the case of death or serious injury, a QA is		

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	Recommendation	Agreement	Relevance
	irrelevant and the incident must be reported forthwith to Service Police.		
77.	Recommendation 77. A program of work be prepared aimed at developing a new joint culture shared by all ADF investigators in order to begin the process of rebuilding the confidence of ADF people in the ADF investigative capability.		
78.	Recommendation 78. Disciplinary action be taken against ADF commanders who knowingly fail to report a serious Service or civilian offence to Service Police or are otherwise found to have kept knowledge of such a matter within their command or to have sought to have it dealt with it by inappropriate administrative or other means.		
79	Recommendation 79. PM ADF be made responsible for the control and coordination of the development and maintenance of all ADF policy and doctrine relating to investigations.		
80.	Recommendation 80. Establish the ADF Investigation Policy and Coordination Committee (ADFIPCC) to subsume and expand on the role currently undertaken by meetings of the Heads of the Defence Investigative Authorities. Proposed Terms of Reference for the ADIPCC are at Attachment 3 to Chapter 7 of this report.		
81.	Recommendation 81. PM-ADF be allocated responsibility for development of an ADF Policing Plan and a Major Investigation Plan (MIP) - in order to overcome the deficiencies associated with the absence of any ADF policing and investigation planning and or coordination measures.		
82.	Recommendation 82. Particular care be taken in appointing suitable officers and SNCOs to leadership and instructional positions at the DPTC.		
83.	Recommendation 83. Use of the term Special Investigations Branch (SIB) cease in the ADF.		

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	Recommendation	Agreement	Relevance
84.	Recommendation 84. PM ADF establish and maintain formal and informal lines of communication and liaison with Federal, State and Territory law enforcement bodies, and full membership or observer status be acquired of the relevant professional forums of those bodies.		
85.	Recommendation 85. ADFIS investigators continue the practice of selectively wearing plain clothes in Australia and that the decision when to do so be left to the discretion of investigator supervisors.		
86.	Recommendation 86. ADFIS personnel be issued with a suitable form of identification badge and card.		
87.	Recommendation 87. Amend the DFDA if necessary (see also related Recommendation 1.3) to remove the uncertainty over the legality of employing civilians to investigate offences by ADF members under the DFDA.		
88.	Recommendation 88. The matter of compensating Service Police for the costs of wearing plain clothes be reviewed by Defence pay and employment conditions authorities with a view to obtaining approval for the payment of an allowance to members of the ADFIS.		
89.	Recommendation 89. ADFIS investigators undertake selected training courses and suitable secondments available in the Federal, State and Territory police forces within a personnel management and development framework based on an equitable, regulated and deliberate policy of <i>essential skills acquisition</i> , career development and advancement for the right people at the right time.		
90.	Recommendation 90. PM ADF coordinate the appointment of investigators within this development framework, with the assistance of Service personnel authorities.		
91.	Recommendation 91. ADFIS establish a police intelligence capability in support of operations and to inform ADF leadership of the nature, extent and effect of existing and emerging criminal threats, to		

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	Recommendation	Agreement	Relevance
	enable timely effective counter-measures.		
92.	Recommendation 92. APS officers be appointed to develop and maintain the ADF policing intelligence capability.		
93.	Recommendation 93. To meet the need for organic ADFIS legal capability, the Major (E) legal officer position at 1 MP Battalion be transferred to the ADFIS and that the ADFIS establish a means of obtaining from ODMP a direct and authoritative source of legal advice.		
94.	Recommendation 94. ADFIS incorporate a technical capability sufficient to support operations that are not dependent, at the present stage of ADFIS development, on specific legislative sanction.		
95.	Recommendation 95. As an urgent priority, the ADF enter into formal arrangements with, principally, the AFP, for the provision of forensic services in Australia and overseas with specific emphasis given to major incidents or crimes involving the non-combat related death of, or serious injury to, ADF personnel.		
96.	Recommendation 96. ADF formulate a service level agreement with the AFP for the ADF to contribute to the maintenance of a modestly priced forensic capability in the AFP and, in exchange, receive priority in major incidents and crimes.		
97.	Recommendation 97. ADF consider implementing a fingerprint and DNA signature recording program for all its members.		
Defence Force Ombudsman's report 2007 (15 recommendations)			
1.	Recommendation 1. Defence promote awareness of the Whistleblower scheme by including a cross reference to the scheme in the Instruction.		
2.	Recommendation 2. Defence review training for management of unacceptable behaviour complaints to		

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	Recommendation	Agreement	Relevance
	maintain freshness and effectiveness. For example, Defence may consider changing and rotating case studies used for training courses, regularly developing and providing new case study exercises for distribution to units and equity advisers, and promoting awareness of different issues through articles in service newsletters and newspapers.		
3.	Recommendation 3. Defence consider strategies to ensure that all members have ready access to a skilled equity adviser, outside the chain of command if necessary. One strategy may be the use of external contractors.		
4.	Recommendation 4. Defence amend the Instruction to impose a time limit for ADF members dissatisfied with the outcome of the investigation to seek review.		
5.	Recommendation 5. Defence consider increasing the availability of, or the ease of access to, independent mediators.		
6.	Recommendation 6. Defence ensure that training delivered to commanders, managers and equity advisers provides sufficient guidance about how to manage respondents fairly.		
7.	Recommendation 7. Defence clarify the action to be taken where commanders and managers identify a possible false or malicious complaint. This could include amending the Instruction to detail the action to be taken by commanders and managers and addressing this issue in training.		
8.	Recommendation 8. Defence consider implementing quality assurance mechanisms for recordkeeping and reporting to ensure that standards are being met.		
9.	Recommendation 9. Defence amend the Instruction by requiring the initial report be submitted to Fairness and Resolution Branch within one week of receipt of the complaint.		

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	Recommendation	Agreement	Relevance
10.	Recommendation 10. Defence consider amending the Instruction by adding a checklist with information about the role and responsibilities of each party to the complaint to help facilitate timely resolution.		
11.	Recommendation 11. Defence consider ways to ensure that posting decisions take account of any limitations that have arisen as a consequence of the investigation of a complaint of unacceptable behaviour.		
12.	Recommendation 12. Defence ensure that the reporting and record-keeping system for complaints of unacceptable behaviour is able to identify systemic issues and is readily accessible by those with a need to know.		
13.	Recommendation 13. Defence consider options for quality assurance of the complaint-handling process, including the Fairness and Resolution Branch performing a feedback and quality assurance role.		
14.	Recommendation 14. Defence reinforce that complaint resolution is a day-to-day management responsibility by including assessment of complaint management in annual performance appraisals for all commanders and managers and integrating training about managing and resolving complaints into general management/supervision training.		
15.	Recommendation 15. Defence consider training modules that focus on effective communication skills for preventing and resolving complaints about unacceptable behaviour.		
Street / Fisher report 2008 (49 recommendations)			
1.	Recommendation 1. Raise a specific pay case recognising the fundamental Input to Capability (FIC) ADF Investigators deliver across the ADF, and the unique and demanding skill sets required of service		

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	Recommendation	Agreement	Relevance
9.	Recommendation 9. Amend jurisdiction of appointed DIPLO's to discipline personnel 'two or more ranks down'.		
10.	Recommendation 10. Amend the DFDA to apply a single scale of punishments applicable across all ranks, including 'Extra Duties'.		
11.	Recommendation 11. Extend Discipline Officers jurisdiction to encourage visiting, transient and attached personnel.		
12.	Recommendation 12. Revise DIPLO reporting arrangements to allow for a single collated DIPLO punishments return within individual units.		
13.	Recommendation 13. Introduce into DLM Vol 3 a simplified checklist/flow chart and simplify the language for election and appeal.		
14.	Recommendation 14. Introduce an improved 'higher Command review' mechanism with authority to take remedial action (to replace the recently adopted ' technical review of summary level DFDA hearings)		
15.	Recommendation 15. Create a specific offence in the DFDA for misuse of a defence Credit Card without authority, which may be tried summarily. This offence should also be a DFDA Class 3 Offence for the purposes of AMC trial.		
16.	Recommendation 16. Review DTC Administrative arrangements with a view to reducing the risk of DTC misuse.		
17.	Recommendation 17. Review the classification of all DFDA offences and classes to achieve greater efficiencies.		

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	Recommendation	Agreement	Relevance
18.	Recommendation 18. Increase the organisational independence of Director of Defence Counsel services.		
19.	Recommendation 19. Rebalance permanent and reserve legal officer staffing and facilitate exchange between DDCS and ODMP to achieve efficiencies and broaden experience in case disposal before the AMC.		
20.	Recommendation 20. DMP discontinue the practice of appearing in the conduct of prosecutions; a permanent or reserve officer should be briefed on each occasion to appear for the prosecution.		
21.	Recommendation 21. Establish the new AMC facility in Canberra as the principal location for hearings , with the capacity to travel as the exigencies of service may dictate, and uniformed Court staff (possibly Reserves) be identified to support the AMC in Canberra and the regions.		
22.	Recommendation 22. Develop a plan where AMC circuit hearings make use of the recently selected Reserve judges, sitting where appropriate at regional locations and on a fixed calendar basis.		
23.	Recommendation 23. Expand the available pool of potential ADF Jurors by lowering the minimum rank for Panel members to CPL(E), (whilst retaining the provision that no Jury member is to be of subordinate rank to the accused) and removing the mandatory requirement for at least one member of the Jury to be of LTCOL (E) rank.		
24.	Recommendation 24. Provision be made for the Registrar of the AMC to identify and select potential Jurors on a 'regional basis' in preference to the current nation-wide pool.		
25.	Recommendation 25. Amend the DFDA to include the power for a military judge to order a convicted member into custody following conviction but before sentence, together with the authority to order conditional release where appropriate.		
Agreed Agreed in part No response Not agreed Relevant Indirectly relevant Not relevant			

	Recommendation	Agreement	Relevance
26.	Recommendation 26. Amend the DFDA so that a stay of execution against a punishment imposed by the Summary Authority is by AMC leave or direction, and is not automatic upon appeal notification.		
27.	Recommendation 27. In proceedings in the AMC the rule of evidence to be applied should be the rules applicable in the Federal Court.		
28.	Recommendation 28. Establish a non executive ‘ Discipline Coordination and Efficiency Committee (DCEC), chaired by a senior ‘ line Officer’ to oversee and coordinate DFDA action items and facilitate future efficiencies across principal responsible DFDA agencies (AMC, ODMP, DDCS, RAMC, ADFIS and DL, with IGADF as a permanent observer.)		
29.	Recommendation 29. Defence Legal should be the functional agency for developing and implementing ongoing law reform within Defence.		
30.	Recommendation 30. Professional rules for ADF legal officers be introduced with technical control and professional administrative oversight by DGADFLS on advice from Head of Corps/ Category and in consultation with HDL.		
31.	Recommendation 31. Disestablish the JAG and DJAG positions once all legacy DFDA appeals have been finalised and have IGADF report annually on the MJS to the minister for presentation to Parliament.		
32.	Recommendation 32. Expand the Defence Force Discipline Appeals Tribunal to six members and allow a single member to hear and determine sentencing appeals for Class 2 and 3 offences or refer an appeal to the full tribunal for determination.		
33.	Recommendation 33. Establish and promulgate Key Performance Indicators (KPI’s)/ benchmarks against which all principle Military Justice system agencies performance can be assessed.		

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	Recommendation	Agreement	Relevance
34.	Recommendation 34. Arrangements be established between the principal MJS agencies and IGADF to facilitate the transfer of performance data to IGADF.		
35.	Recommendation 35. Repromulgate DI(G) ADMIN 10-8 Conduct reporting and tracing System, to require DFDA case data to be entered by the agency that has carriage of the case at the time, reducing unit administrative burden after the fact.		
36.	Recommendation 36. Simplify Military Justice System data collection systems (CRTS in particular), with the aim of improving the user interface, connectivity, and minimising the growing number of reporting systems and occasions for reporting.		
37.	Recommendation 37. Review the policy relating to the retention and access of disciplinary investigations and records that do not result in a prosecution, and hearings that result in an acquittal, quashing or direction not to proceed with.		
38.	Recommendation 38. Maintain the Co-Location of the Policy and resolution delivery functions of Fairness and Resolution Branch within People Strategies and Policy group.		
39.	Recommendation 39. Adopt and promulgate a 90 day benchmark for the referral of ROG's to CDF/ Service Chiefs.		
40.	Recommendation 40. Review modern illegal drug detection techniques with a view to introduction as appropriate.		
41.	Recommendation 41. Review the current Service termination process to reduce delays and the exploitation of the ROG system by disaffected people.		
42.	Recommendation 42. Pursue amendments to the Defence (Inquiry) Regulations and Defence Act to		

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	Recommendation	Agreement	Relevance
	provide Inquiry Officers the requisite Powers and protections to Compel ADF Reserve Personnel and Defence APSS staff to participate in inquiries.		
43.	Recommendation 43. Provide administrative support to CDF COI's from the Office of IGADF.		
44.	Recommendation 44. Pursue legislative amendments to allow for the appointment of COI Assistants with similar powers and protections as those currently granted to Inquiry Assistants under part 6 of the Defence (Inquiry) Regulations. Witness protections currently provided for evidence given before a COI should be extended to evidence provided to a COI Assistant and evidence otherwise provided to a COI outside of formal hearings.		
45.	Recommendation 45. Provide on recruitment into the ADF, a pamphlet highlighting the application of the DFDA and Performance Appraisal System in a disciplined military force, and emphasising the rights and responsibilities of individuals.		
46.	Recommendation 46. Introduce a training continuum for NCO's and Junior officers, to better prepare personnel to perform the duties of summary level prosecutor and defending officer, and to participate in the conduct of administrative sanctions and routine inquiries.		
47.	Recommendation 47. Conduct the next Military Justice System review in three years.		
48.	Recommendation 48. Establish a discretionary delegation for CDF to Compensate administrative/ management/ financial errors in addition to the current CDDA format.		
49.	Recommendation 49. Reemphasise the requirement for all senior reporting officers (both APS and Military) to adhere to the requirements of DI(G) 37-1 Appraisal and development Reporting of executive and Senior Executive Officers in the Australian Defence Force.		

Agreed	Agreed in part	No response	Not agreed	Relevant	Indirectly relevant	Not relevant
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