

DEFENCE RESPONSE TO THE RECOMMENDATIONS OF THE AUDIT OF ADF INVESTIGATIVE CAPABILITY

THE NATURE OF ADF INVESTIGATIONS

Recommendation 1.1

The ADF adopt one definition of a Service police (SP) investigation and reflect that in all relevant policy and doctrine, whether Departmental or ADF.

'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.'

AGREED

Defence will adopt one definition of a Service police (SP) investigation, based on the definition proposed at recommendation 1.1 of the DICA report. Action is underway to amend the principal policy document – Defence Instruction General (DI(G)) ADMIN 45-2 - *Reporting and Investigation of Alleged Offences within the Australian Defence Organisation*.

Recommendation 1.2

Ensure consistency between the different sources of policy on ADF aircraft crash investigation.

AGREED

Defence will ensure consistency between the different sources of policy on ADF aircraft crash investigation, noting that considerable work has already been undertaken to update the Defence Aviation Safety Manual (DASM), the prime source for all ADF aircraft accident investigation policy, procedure and processes, which is Volume 3 of the Defence Safety Manual. ADFP 731, the Medical Guide to Aircraft Accident/Incident Investigation will be updated to ensure consistency with the DASM and will be re-issued as a manual in mid-2007.

Recommendation 1.3

Decide whether it is appropriate to empower civilian investigators of non-ADF Defence Organisation to investigate ADF people for alleged breaches of the DFDA.

AGREED

Defence will examine whether it is appropriate to empower civilian investigators of non-ADF Defence Organisations to investigate ADF people for alleged breaches of the DFDA. Any subsequent decision will need to consider the future structure of the ADF Investigative Service (ADFIS), and single-Service Service Police categories.

Recommendation 1.4

Adopt a common investigation standard promulgated in one Defence investigation policy to be complied with by all Defence Investigative Authorities (DIAs) and all their investigators.

AGREED

Defence will adopt a common investigation standard promulgated in one Defence investigation policy to be complied with by all Defence Investigative Authorities (DIAs) and all their investigators. The policy will be reflected in DI(G) ADMIN 45-2 or its replacement and this will be supported by a procedural document that is to be developed to replace the current Defence Investigation Technical Instructions (DITI).

Recommendation 1.5

ADF members empowered to initiate investigations and inquiries receive formal familiarisation with the types and methods available to them.

AGREED

Defence will ensure that ADF members who are empowered to initiate investigations and inquiries receive formal familiarisation with the types and methods available to them. The types and methods of Service police investigation will be part of the training delivered at the DPTC and other training will be delivered by the single-Services as appropriate.

ENVIRONMENT IN WHICH ADF INVESTIGATIONS ARE CONDUCTED

Recommendation 2.1

Each Service review and clarify the function and roles of its SP Organisation.

AGREED

Defence (each Service) will review and clarify the function and roles of its Service Police organisations as a priority noting that their future functions and roles will inform and complement the agreed structure and roles of the joint ADF Investigative Service. This will be reflected in the new ADF Policing Plan (recommendation 2.9).

Recommendation 2.2

Action be taken to dispel the strong perception that exists amongst Service Police and some ADF officers that special forces units and some infantry units are exempt from ADF disciplinary policy and processes.

AGREED

Defence will take action to dispel any perception that some units are exempt from ADF disciplinary policy and processes, noting that the jurisdiction of the DFDA applies to all members of the ADF.

Recommendation 2.3

Action continue to ensure that the [Office of the Director of Military Prosecutions] ODMP is provided with sufficient numbers of qualified and experienced staff.

AGREED

Defence has taken action to ensure that the ODMP is provided with sufficient numbers of qualified and experienced staff.

Action to appropriately resource the ODMP is being progressed as required by the Government response to Recommendation 11 of the 2005 Senate Inquiry report. Eleven additional positions required to implement the enhancements to the military justice system, have been established and are being filled. Additional resources such as IT and accommodation have been reviewed and identified and are being progressed.

Recommendation 2.4

Training of ADF commanders and commanding officers at all levels emphasise:

- **the importance of high quality Service Police investigations to the maintenance of discipline and delivery of military justice;**
- **their responsibilities to support the conduct of investigations; and**

- the consequences of impeding or obstructing a Service Police investigation.

AGREED

Defence will take action to incorporate training on the importance of high quality Service Police investigations and the responsibilities and obligations of all ADF members in supporting the conduct of such investigations in relevant training courses, especially those for commanders and commanding officers. The Service Police aspects of this will be undertaken as part of a comprehensive review of the whole Service Police Investigator training continuum.

Recommendation 2.5

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.

AGREED

Defence will remove any reference on entry signs requiring Service or civilian police to report to unit guard houses where access is relevant to the conduct of policing duties.

Recommendation 2.6

Protocols should be developed between investigators and Service personnel posting authorities to ensure that the timeliness of Service Police investigations is not jeopardised by the posting or discharge of ADF members while investigation or prosecution work involving them is in progress.

AGREED

Defence will develop protocols between investigators and Service personnel posting authorities in order to ensure that, subject to overall ADF capability priorities and workforce considerations, the timeliness of Service Police investigations is not jeopardised by the posting or discharge of ADF members while investigation or prosecution work involving them is in progress.

Recommendation 2.7

In the interest of focussing effort on major investigations, Service Police 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.

AGREED

Subject to command requirements for the maintenance of effective discipline (see recommendation 2.8), Defence will introduce a discretion for Service Police investigators, General Duties Service Police and Commanders to prioritise and choose not to investigate, but to simply record, minor, ‘one off’ incidents, where a successful conviction would be

unlikely to justify the time, effort and other resources involved in the investigation, in order to focus effort on major investigations.

Recommendation 2.8

Only in exceptional cases should Service Police investigators investigate matters of minor indiscipline more properly dealt with by commanders and their staffs.

AGREED

Defence will ensure that, only in exceptional cases will Service Police investigators investigate matters of minor indiscipline more properly dealt with by commanders and their staffs.

The structure, functions and staffing of the new joint ADF Investigation Unit has been established based on the principal that, in order to maximise the value of scarce investigator resources, the joint unit would be responsible for the conduct of all serious or major investigations within Australia and overseas and for the investigation of minor criminal offences in those locations where there is currently no permanent single-Service Service Police capability. This will be reflected in due course in a new DI(G) reflecting the responsibilities of the ADF Investigation Service (ADFIS).

Recommendation 2.9

Develop an ADF policing plan.

AGREED

Defence will develop an ADF policing plan. This will be a high priority task which will inform, inter alia, the mature strength and disposition of the new joint ADF Investigation Unit, the requirements of the broader General Duties policing capability and the way in which Service police relate to Federal, State and Territory Police authorities at the local level. The development of the ADF Policing Plan is to be conducted in conjunction with, and will reflect, the single-Service reviews of their Service Police capability (see recommendation 2.1).

Recommendation 2.10

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.

AGREED-IN-PRINCIPLE

Defence will use the Discipline Officer (DO) scheme in all units except where grounds not to do so have been identified and explained and approved by the relevant Service Chief, subject to the agreed outcomes of a review of the ADF summary proceeding system (required by the Government response to the Senate Committee report) relevant to the DO Scheme.

Recommendation 2.11

PM ADF and the ODMP develop guidance for Service Police to use in the preparation of briefs of evidence to a standard acceptable for use by competent ADF and civilian authorities.

AGREED

Defence will develop guidance for Service Police to use in the preparation of briefs of evidence to a standard acceptable for use by competent ADF and civilian authorities. This will be one element of the improved policy guidance to be developed as recommended by recommendation 4.1 of the DICA report. Additionally, appropriate mechanisms will be developed to ensure feedback between the PM ADF and the ODMP to ensure the standard of briefs of evidence.

LEGISLATION, POLICY AND DOCTRINE

Recommendation 4.1

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 Sec 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.

AGREED

Defence will develop and operate under one common source of investigation policy published under the signatures of the CDF and Sec and binding on all agencies. The policy will, as far as 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 will be published elsewhere.

Recommendation 4.2

PM ADF be made responsible and accountable for the development and maintenance of ADO investigation policy and doctrine.

AGREED-IN-PRINCIPLE

The PM ADF will be responsible to CDF for the development and maintenance of ADF investigation policy in the context of broader Defence requirements to be established by CDF and the Secretary, however, in line with ADF lead training arrangements, the Chief of Army is the Manager Joint Training (MJT) for Service Investigation doctrine and training. (As for Recommendation 7.18.)

Recommendation 4.3

The one common source of ADO investigation policy should contain a direction to the effect that: “*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.*”

AGREED-IN-PRINCIPLE

Defence will develop one common source of ADO investigation policy which will contain direction to the effect that: “*Without exception, Notifiable Incidents are to be reported simultaneously to Service police and the appropriate chain of command and Service Police are to inform civilian police and other Defence Investigative Authorities as appropriate*”,

noting that certain Notifiable Incidents also require concurrent reporting to other Defence Investigative Authorities. This will be one element of the improved policy guidance to be developed as recommended by recommendation 4.1 of the DICA report.

Recommendation 4.4

The ADO prohibit in its investigation policy and procedures any Service or other organisation-centric exclusions.

AGREED

Defence will prohibit any Service or other organisation-centric exclusions in all investigation policy, other than where legislated separately. This will be one element of the improved policy guidance to be developed as recommended by recommendation 4.1 of the DICA report.

Recommendation 4.5

ADO investigation policy and doctrine be of sufficient specificity and clarity to negate the need for local interpretation and expansion by subordinate commanders.

AGREED

Defence will ensure that ADO investigation policy and doctrine is of sufficient specificity and clarity to negate the need for local interpretation and expansion by subordinate commanders. This will be one element of the improved policy guidance to be developed as recommended by recommendation 4.1 of the DICA report.

Recommendation 4.6

There should only be one extant version of ADFP 06.1.4 – *Administrative Inquiries Manual*.

AGREED

Defence will promulgate only one extant version of ADFP 06.1.4 – *Administrative Inquiries Manual*.

Recommendation 4.7

In ADO 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.

AGREED-IN-PRINCIPLE

ADO investigation policy will place the emphasis on ensuring that incidents are handled lawfully, ethically and professionally and that everything else, including informing superiors, military or civilian, is secondary, contemporaneous with the principle that, in the ADF, the maintenance of discipline is indivisible from the function of command.

Recommendations 4.8 – 4.12

Quick Assessments (QA)

- The ADO adopt a new QA policy.
- The purpose of a QA be defined as being “... 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”.
- ADF Quick Assessment policy be published separate from ADFP 06.1.4. It should be applicable to all matters whether administrative or otherwise.
- ‘Context management’ not be part of QA policy.

AGREED

Defence is amending the policy with respect to Quick Assessments (QA) to provide enhanced guidance. A revised QA policy is being developed and will be issued in 2007 to coincide with the revision of ADFP 06.1.4, Edition 3. In the meantime, interim CDF guidance to commanders has been released.

Recommendation 4.13

Defence review the DFDA.

AGREED

Defence will amend a number of offences as part of the Defence Legislation Amendment Bill (DLAB) 2007, and continue a more detailed review as agreed in the Government response to recommendations 35 and 36 of the Senate Committee report.

Recommendation 4.14

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.

AGREED

Defence will explore the 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. The outcomes of this review will be used to inform the development and introduction of similar legislation in the ADF.

Recommendation 4.15

In parallel with development of one Defence investigations policy, DI(G) ADMIN 45-2 - *Reporting and Investigation of Alleged Offences within the Australian Defence Organisation* be reviewed and repromulgated to focus on the reporting 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.

AGREED

Defence is currently reviewing DI(G) ADMIN 45-2, focussing on the reporting of offences and reflecting the establishment of the PM ADF position

Recommendation 4.16

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.

AGREED

Defence will not revise the Defence Investigation Technical Instructions (DITI). New, common investigation policy and procedure will be developed as recommended at recommendation 4.1 of the DICA report.

Recommendation 4.17

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).

AGREED

Action is underway to 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).

Recommendation 4.18

Development of DPSMS Stage 2 conform to NCSU requirements.

AGREED

Action is underway to develop DPSMS Stage 2 to conform to NCSU requirements. DPSMS Stage 2 is expected to be rolled out in early 2007.

TRAINING

Recommendation 5.1

Service Police and investigator training needs be reviewed to emphasise and 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.

AGREED

Defence will review Service Police and investigator training needs to emphasise and reinforce the basic core skills and competencies of policing. The review will 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. It should be noted that a Training Needs Analysis (TNA) of Investigator training conducted by the DPTC was completed in Oct 05 and the revised investigator training continuum is being implemented.

Recommendation 5.2

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.

AGREED

Defence is staffing the DPTC development wing to incorporate an effective research capability that will permit Service Police curricula to be amended to reflect changes in Australian law and policing practice in a timely manner.

Recommendation 5.3

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.

AGREED

Defence will centralise ADF Service Police and investigator training at the DPTC from 2007. In the short-term, facilities at DPTC may not be able to accommodate the expanded training throughput such that some training will continue to be delivered using the current facilities of the RAAF Police and Security Services Training Flight at the RAAF SFS whilst the DPTC infrastructure is expanded or alternative delivery models are developed. The Wing will be retained to provide Air Force with Protective Security, Military Working Dog, Emergency Control and Unit Security Officer training.

Recommendation 5.4

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.

AGREED

Defence will review DPTC training to ensure best practice against an appropriate standard, consistent with the recommendations of the Audit of ADF Schools and Training Establishments.

Recommendation 5.5

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.

AGREED

Defence will 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, consistent with the recommendations of the Audit of ADF Schools and Training Establishments.

Recommendation 5.6

Consideration should be given to conducting refresher training by distance learning means.

AGREED

Defence will consider conducting refresher training by distance learning means, consistent with the recommendations of the Audit of ADF Schools and Training Establishments.

Recommendation 5.7

Consideration should be given to affiliating the DPTC with a credible civilian law enforcement teaching institution such as Charles Sturt University.

AGREED

Defence will consider affiliating the DPTC with a credible civilian law enforcement teaching institution, consistent with the recommendations of the Audit of ADF Schools and Training Establishments.

Recommendation 5.8

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.

AGREED

Defence will include the proper care and management of incident and crime scenes, at least in terms of basic protection and preservation techniques, as an element of all pre-command training courses in the ADF and other command courses as appropriate. TheREACT training package, currently in use for all Force Preparation Training, is to be used as the basis for this training.

Recommendation 5.9

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.

AGREED-IN -PRINCIPLE

Defence will seek to formalise its arrangements 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, noting that the form of agreements with Federal, State and Territory jurisdictions is yet to be determined.

Recommendation 5.10

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.

AGREED-IN-PRINCIPLE

Defence will establish attachments to civilian policing organisations, with the priority attendance being Service Police personnel, noting that a number of non-Service Police members also undertake attachments with civilian police and this will continue. Service Police attachments will be coordinated by the PM ADF as part of a structured professional development program.

Recommendation 5.11

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.

AGREED that responsibility for the maintenance of training standards should be centralised, but notes that:

The PM ADF is to 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, noting that the Chief of Army is the Manager Joint Training for Service Police doctrine and training.

Recommendation 5.12

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.

AGREED-IN-PRINCIPLE

Defence will identify and begin preparing suitable officers from all three Services to command the DPTC in due course, and share a proportional load of the Centre’s trainer liability, noting that: the DPTC will remain a joint school under the command of the Chief of Army; and staffing of the DPTC will be subject to overall ADF capability priorities and workforce considerations.

Recommendation 5.13

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.

AGREED

Defence will put in place policy and procedures such that an Army Commandant of the DPTC will not be ‘double hatted’ as the Head of Corps of the RACMP in order to permit the Commandant to concentrate on renewing and reinvigorating Service Police training. The Provost Marshal Army is expected to be designated as the Head of Corps RACMP from Jan 2007.

Recommendation 5.14

Service Police personnel posted to DPTC as instructors be screened to ensure that they have the skills and attributes required for such duties.

AGREED

Defence will screen Service Police personnel for possible posting to the DPTC as instructors to ensure that they have the skills and attributes required for such duties, consistent with the recommendations of the Audit of ADF Schools and Training Establishments.

Recommendation 5.15

Fill the ADF staff vacancies at the DPTC.

AGREED-IN-PRINCIPLE

Defence will fill the ADF staff vacancies at the DPTC, noting that such staffing will be subject to overall ADF capability priorities and workforce considerations.

Recommendation 5.16

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 specified times during his appointment.

AGREED

Defence will re-write CDF's Directive establishing the DPTC to incorporate the agreed changes proposed by this audit report. The new Commandant DPTC Directive will incorporate specific Service Police training reform objectives to be achieved by the Commandant by specified times during his appointment.

Recommendation 5.17

Navy and Air Force senior leadership become more involved with the DPTC.

AGREED-IN-PRINCIPLE

Navy and Air Force senior leadership will become more involved with the DPTC, noting that the School will remain a joint school under the command of the Chief of Army.

Recommendation 5.18

A formal and funded ADF Investigator Development Program should be developed and coordinated by the PM-ADF with the assistance of Service personnel authorities.

AGREED-IN-PRINCIPLE

Defence will develop a formal and funded ADF Investigator Development Program which will be coordinated by the PMADF with the assistance of Service personnel authorities, noting that the opportunities for Service police investigator professional development will be subject to overall ADF capability priorities and workforce considerations.

Recommendation 5.19

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.

AGREED-IN-PRINCIPLE

Defence will inform ADF commanders of all ranks 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, noting that, in certain operational circumstances, force protection may necessitate a higher priority than incident or crime scene management.

Recommendation 5.20

All Service Police and all other ADF people be taught and understand that knowing what *not* to do at an incident or crime scene is equally important as knowing what to do.

AGREED

Defence will take steps to ensure, as far as possible, awareness amongst all Service Police and all other ADF people that knowing what *not* to do at an incident or crime scene is equally important as knowing what to do, noting that crime scene identification and management are currently addressed on the Service Police Basic Training course.

Recommendation 5.21

PM ADF establish a feedback loop between his office, ODMP and DPTC to, inter alia, facilitate improvement in the standard of briefs of evidence.

AGREED

Defence will establish a feedback loop between the PM ADF, ODMP and DPTC to, inter alia, facilitate improvement in the standard of briefs of evidence. This feedback loop will be used to inform the training requirements and syllabus at the DPTC.

RESOURCES

Recommendation 6.1

A consistent application of additional administrative support to the ADF investigative capability be made in order to help improve their timeliness

AGREED

Defence will ensure, as far as possible, a consistent application of additional administrative support to the ADF investigative capability in order to help improve their timeliness in the conduct of investigations.

Recommendation 6.2

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.

AGREED

Defence agrees the thrust of reform will be on improving the effectiveness and efficiency of the existing workforce, and will take action to improve the recruitment and retention of investigators, noting that this action is also in accordance with the Government response to recommendation 5 of the Senate Committee report. It should be noted that in some cases, including for the Naval Police Coxswain category, remediation plans are already in place.

Recommendation 6.3

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 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.

AGREED

Defence will provide the ADF investigative capability with information technology support that aids in the planning, execution, management, quality control and periodic evaluation of investigations and operations.

Recommendation 6.4

Defence proceed with the Stage 2 upgrade of DPSMS as a matter of urgency.

AGREED

Defence is proceeding with the Stage 2 upgrade of DPSMS as a matter of urgency as noted at recommendation 4.18.

Recommendation 6.5

An experienced Service Police member be nominated to assist in the development of DPSMS Stage 2.

AGREED

Defence has identified and established six personnel (4 Service Police and 2 civilians) to assist in the development of DPSMS Stage 2.

Recommendation 6.6

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.

AGREED

Defence will develop DPTC, as far as possible, as a centre of excellence in DPSMS instruction, consistent with the recommendations of the Audit of ADF Schools and Training Establishments.

Defence will also staff the DPTC with appropriately experienced and trained civilians to provide DPSMS training and administration.

Recommendation 6.7

Analysts Notebook be funded by DPSMS Stage 2 and made available to all ADO investigators.

AGREED-IN-PRINCIPLE

Defence will equip ADF investigators as appropriate to their responsibilities with Analysts Notebook or an agreed alternative, noting that, as the DPSMS project is at a mature stage and funding has only been identified for introduction of that capability, funding arrangements are yet to be identified.

NEW SERVICE POLICE INVESTIGATION COMMAND, ORGANISATION AND CONDITIONS OF SERVICE ARRANGEMENTS

Recommendation 7.1

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.

AGREED

Defence has established initial positions, to staff the joint ADF Investigation Unit. The ADFIS is currently being 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 for the more complex investigations.

Recommendation 7.2

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.

AGREED-IN-PRINCIPLE

Defence will staff the ADF investigative capability to reflect the overall ADF capability priorities and workforce considerations and an appropriate posting priority will be given to staffing the ADFIS. The agreed structure and staffing of the ADFIS will be taken into consideration in any Service plans to reduce existing investigator establishment positions or staffing levels, noting that individual Service requirements of force structure, workforce modelling and individual proficiencies will determine the agreed structure and staffing of the ADFIS.

Recommendation 7.3

Review the ADF's need for garrison policing.

AGREED

Defence will review the ADF's need for garrison policing, noting that the requirement for a garrison policing capability will be both determined by, and inform, the agreed structure and roles of the joint ADF Investigation Unit.

Recommendation 7.4

The draft CDF Directive at Attachment 1 to Chapter 7 of this report be used to establish the ADFIS.

AGREED-IN-PRINCIPLE

The draft CDF Directive at Attachment 1 to Chapter 7 of the report has been used as a basis for establishing the ADFIS, noting that further analysis is required to determine the optimum nature and shape of the ADFIS.

Recommendation 7.5

The role of the ADFIS be established as:

“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.”

AGREED

Defence will establish the ADFIS 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”, noting that the ADFIS will also serve the Service Chiefs and their subordinate commands.

Recommendation 7.6

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.”*

AGREED-IN-PRINCIPLE

Defence will establish ADFIS with the functions generally in accordance with this recommendation, and reflecting the overall requirements of the Services for general duties policing and minor criminal investigations.

Recommendation 7.7

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.**

AGREED-IN-PRINCIPLE

Defence will empower ADFIS investigators to investigate any matters within the jurisdiction of the DFDA. The jurisdiction of remaining Single-Service Service police will be based on their individual competency (whether they have completed the Service Police Basic Course and/or the Military Police Investigations Course) and in some cases their location, noting that this may require the Services to rebuild their Minor Criminal Investigation (MCI) capability, with a possible requirement for additional resources, over a transition period as the new arrangements are put in place. Non-Service Police SNCO or officers appointed under Section 101 of the DFDA, will be limited to the investigation of minor disciplinary offences.

Recommendation 7.8

ADFIS workforce should be comprised of suitably qualified ADF investigators and suitably qualified civilians, either Defence APS members or Professional Service Providers, all engaged under suitable employment terms in order to undertake investigations.

AGREED

Defence will initially establish the ADFIS workforce based around the current ADF investigator qualified establishment. The initial establishment will be reviewed within 12 months of establishment in order to confirm the unit's structure, responsibilities and staffing. This review will address the requirement for and/or suitability of, suitably qualified civilians, either Defence APS members or Professional Service Providers, to undertake investigations.

Recommendation 7.9

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.

AGREED

The PM ADF will be appointed as the commander of the ADFIS, and his duties will be based on the draft duty statement at Attachment 2 to Chapter 7 of the report.

Recommendation 7.10

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.

AGREED-IN-PRINCIPLE

Defence will address the future requirement for secondment of an AFP officer with the ADFIS, as part of the ongoing cooperation between the ADF and the AFP.

Recommendation 7.11

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.

AGREED

Defence will incorporate in the ADFIS a Major Investigations Team (MIT) comprised of highly qualified and experienced investigators with the primary role of conducting major, complex and sensitive investigation, noting that an initial team is already in place. The mature arrangements will be based on the outcomes of Recommendation 7.8.

Recommendation 7.12

ADFIS base its professional policing standards on those of Australian law enforcement agencies.

AGREED

Defence will base ADFIS' professional policing standards on those of relevant Australian law enforcement agencies.

Recommendation 7.13

ADFIS introduce a Quality Assurance Review and Reporting regime to ensure the quality and standard of its output.

AGREED

Defence will introduce a Quality Assurance Review and Reporting regime to ensure the quality and standard of the ADFIS output.

Recommendation 7.14

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.

AGREED

Defence will ensure that 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 under their command.

Recommendation 7.15

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 irrelevant and the incident must be reported forthwith to Service Police.

AGREED-IN-PRINCIPLE

Defence will ensure that ADF officers are informed that when a QA suggests 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. Guidance will stipulate that, in the case of death or serious injury, a QA is irrelevant and the incident must be reported forthwith to Service Police.

Recommendation 7.16

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.

AGREED

Defence will implement a change program 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

Recommendation 7.17

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.

AGREED-IN-PRINCIPLE

Defence will take action as appropriate against any ADF members 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 by inappropriate administrative or other means, noting that:

- current policy (DI(G) ADMIN 45-2) makes it mandatory for commanders, managers and all Defence personnel to report Notifiable Offences (which encapsulates serious Service or civilian offences) to a Defence Investigative Authority;
- instances of failure to report a serious offence can be dealt with under the DFDA sections 29 (failing to comply with a general order), 35 (negligence in performance of duty) or 60 (prejudicial conduct); and
- in all cases, natural justice and a fair hearing must be provided.

Recommendation 7.18

PM ADF be made responsible for the control and coordination of the development and maintenance of all ADF policy and doctrine relating to investigations.

AGREED

Defence will centralise the responsibility for the control and coordination of the development and maintenance of all ADF policy and doctrine relating to investigations.

The PM ADF will be responsible for ADF investigation policy in the context of broader Defence requirements to be established by CDF and the Secretary. In line with ADF lead training arrangements, the Chief of Army is the Manager Joint Training for Service Investigation doctrine and training. (As for Recommendation 4.2.)

Recommendation 7.19

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.

AGREED-IN-PRINCIPLE

Defence will establish an ADF Investigation Policy and Coordination Committee (ADFIPCC) which will be a sub-set of the extant Heads of the Defence Investigative Authorities. The membership and responsibilities of the Committee will be established on this basis.

Recommendation 7.20

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.

AGREED

The PM-ADF will be responsible for coordinating the development of an ADF Policing Plan and a Major Investigation Plan (MIP). The plan will be developed based on Service requirements for General Duties policing and minor criminal investigations and be aimed at overcoming the deficiencies associated with the absence of any ADF policing and investigation planning and or coordination measures.

Recommendation 7.21

Particular care be taken in appointing suitable officers and SNCOs to leadership and instructional positions at the DPTC.

AGREED

Defence will appoint suitable officers and SNCOs to leadership and instructional positions at the DPTC, noting that, the staffing will be subject to overall ADF capability priorities and workforce considerations.

Recommendation 7.22

Use of the term Special Investigations Branch (SIB) cease in the ADF.

AGREED

Defence will cease use of the term Special Investigations Branch (SIB) with the implementation of the ADFIS.

Recommendation 7.23

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.

AGREED

Defence will establish and maintain formal and informal lines of communication and liaison with Federal, State and Territory law enforcement bodies, and will build on existing membership or observer status of the relevant professional forums of those bodies, noting that such arrangements commenced at the 2006 Commissioners' Conference.

Recommendation 7.24

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.

AGREED

Defence will continue the practice of investigators selectively wearing plain clothes in Australia, with the decision on when to do so to be left to the discretion of investigator supervisors.

Recommendation 7.25

ADFIS personnel be issued with a suitable form of identification badge and card.

AGREED

Defence will issue ADFIS personnel with a suitable form of identification badge and card, noting that consideration is being given to all Service Police being issued with appropriate identification.

Recommendation 7.26

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.

AGREED

Defence will amend the DFDA if necessary to remove the uncertainty over the legality of employing civilians to investigate offences by ADF members under the DFDA, subject to the outcomes of Recommendation 1.3.

Recommendation 7.27

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.

AGREED-IN-PRINCIPLE

Defence will review the matter of compensating Service Police for the costs of wearing plain clothes with a view to obtaining approval for the payment of an allowance to members of the ADFIS, noting that it will be subject to the usual pay and conditions of service determinations.

Recommendation 7.28

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 *essential skills acquisition*, career development and advancement for the right people at the right time.

AGREED

Defence will implement a program of ADFIS investigators undertaking selected training courses and suitable secondments available in the Federal, State and Territory police forces, subject to overall ADF/civilian police capability priorities and workforce considerations. The PM ADF will be responsible for coordinating secondments as an element of the investigator professional development continuum.

Recommendation 7.29

PM ADF coordinate the appointment of investigators within this development framework, with the assistance of Service personnel authorities.

AGREED-IN-PRINCIPLE

The PM ADF will be responsible for coordinating the appointment of investigators within this development framework, with the assistance of Service personnel authorities, noting that, individual career development and workforce planning considerations will remain the responsibility of the single-Services.

Recommendation 7.30

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 enable timely effective counter-measures.

AGREED

Defence will establish a police intelligence capability to support operations and to inform ADF leadership of the nature, extent and effect of existing and emerging criminal threats in order to enable timely effective counter-measures by both commanders and the DIA.

Recommendation 7.31

APS officers be appointed to develop and maintain the ADF policing intelligence capability.

AGREED-IN-PRINCIPLE

Defence will develop and maintain an ADF policing intelligence capability, noting that this capability may be staffed by APS, Service or contract staff.

Recommendation 7.32

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.

AGREED the recommendation to provide legal support to the PM ADF, but notes that:

Defence will establish a Legal Officer position within the ADFIS and a means of obtaining, from ODMP, a direct and authoritative source of legal advice, noting that the officer may not be provided from 1 MP Battalion.

Recommendation 7.33

ADFIS incorporate a technical capability sufficient to support operations that are not dependent, at the present stage of ADFIS development, on specific legislative sanction.

AGREED

Once defined, Defence will incorporate a technical capability sufficient to support operations that are not dependent, at the present stage of ADFIS development, on specific legislative sanction.

Recommendation 7.34

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.

AGREED-IN-PRINCIPLE

Defence will seek to build on the existing cooperation between the ADF and the civilian Police authorities by entering into formal arrangements, principally with 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. This will build on the existing cooperation between the AFP and ADF to progress this endeavour.

Recommendation 7.35

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.

AGREED-IN-PRINCIPLE

Defence will formulate an agreement with the AFP, the nature of which is to be determined, 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. Noting that such an arrangement will be subject to the overall priorities and capability requirements of both the ADF and AFP.

Recommendation 7.36

ADF consider implementing a fingerprint and DNA signature recording program for all its members.

AGREED

Defence will consider implementing a fingerprint and DNA signature recording program for all its members, noting the significant privacy and legal issues that would need to be agreed prior to introduction.

ACTION PLAN

Recommendation 8.1

The Action Plan as proposed in Chapter 8 be implemented.

AGREED-IN-PRINCIPLE

The proposed action plan at Chap 8 of the DICA report forms the basis for a detailed implementation plan which is currently being developed for the endorsement of the Services.