

The Sword of Truth: The ADF Investigative Service

Provost Marshal of the Australian Defence Force (PM ADF) Colonel Tim Grützner is putting his hand up for an additional title – that of also having the best job in the military. Amanda Dickerson spoke to him about the ADF Investigative Service (ADFIS) and its role.

ADFIS was formed as the result of the Senate Inquiry into the effectiveness of Australia's military justice system, which was critical of a number of aspects of ADF investigations, including a lack of common standards and training. The subsequent Senate report recommended the establishment of a joint ADF investigation unit.

"There was no real coordination between the Services's policing agencies and we didn't conduct any joint operations," explains COL Grützner.

"Even overseas, Army MPs did investigations on the ground, the RAAF Security Police were on the air bases and the Naval Police Coxswains were on the ships, but there was little 'jointery' in policing.

It was decided to group the Investigators of the three Services, leaving the general duties Service Police within their parent Services. The Investigators have formed the joint ADFIS.

"In any police force you have general duties officers and you have detectives – Investigators. The problem in the Service Police was that uniformed members have additional tasks beyond policing. The Army's Military Police are responsible for close personal protection and prisoner management; the RAAF Security Police are responsible for security as well as law enforcement; and the Naval Police have additional responsibilities at sea as Coxswains. As a result of the Senate Inquiry report and a subsequent

review of the Service Police capability, we have taken the Investigators and formed them into one joint investigations agency commanded by the Provost Marshal and responsible directly to the CDF," COL Grützner says.

"We've never had an ADF Provost Marshal before and the original intention was for me to have a small staff and look after training, professional standards, policy and doctrine and apply them across the board. Then we had the Audit of the Australian Defence Force Investigative Capability (DICA) which recommended a wider role for the Provost Marshal and the formation of the ADFIS."

The DICA also had its origins in the Senate inquiry – the Government response undertaking to conduct an audit to identify what measures were necessary to provide an effective and efficient investigative capability. The audit report found that the ADF's investigative capability was in serious decline and recommended changes in almost every aspect of Service policing. Defence agreed to 99 of the DICA's recommendations and is currently implementing them. The creation of the PM ADF position and ADFIS are both key outcomes from those recommendations.

"We're responsible for investigating alleged offences under the Defence Force Discipline Act (DFDA). The single-Service Service Police remain responsible for minor investigations while we do the more serious and complex investigations. In addition, we support boards and commissions of inquiry. If there's a very serious incident like the Black Hawk accident on HMAS Kanimbla or a death on operations, my Investigators support the inquiries into these incidents.



"ADFIS Investigators are expert at collecting evidence, whether that be physical evidence such as photographs, casts, or documents; taking statements; or conducting interviews, so we now attach Investigators to all Chief of the Defence Force commissions of inquiry. The scope of what we do is widening because of our expertise," he says.

Having all of the ADF's Investigators under the same banner has already seen improvements in response times, completion rates and the time taken to complete investigations.

"Previously, where Investigators were based locally, if they had 10 open jobs and something significant occurred, the other 10 cases would probably be delayed. Now, if a big case comes in anywhere, I'll just direct more resources at it. Theoretically, nothing has to stop.

"We now have a dedicated police intelligence cell, which isn't a capability we've had in the single-Service elements. They look at every incident that comes in and build databases of information so that instead of sitting waiting for a call, we can now be proactive in our operations," COL Grützner explains.

In order to become an ADF Investigator, members must normally have served some time in →

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SGT Paul Judges, ADF Investigator

LEFT: Colonel Tim Grützner

RIGHT: No stone left unturned: Australian Defence Force Investigative Service (ADFIS) Service Police Investigators, Royal Australian Air Force (RAAF) Security Police (SP) Investigator, Corporal Scott Broad, and Australian Army Military Police (MP) Sergeant Tony Hagerty, conduct training during the late evening to keep their skills up to speed in East Timor.

Photo: Corporal Chris Moore

The Senate Inquiry

Following a number of allegations and complaints about Defence’s handling of military justice, the Senate Foreign Affairs, Defence and Trade References Committee began an inquiry into the effectiveness of Australia’s military justice system, tabling its report in June 2005.

Of the report’s 40 recommendations, the then-Government agreed in whole, in part or in principle to 30. It advised alternative solutions to meet outcomes relating to the referral of offences to civilian authorities, the legislative basis of the AMC and the establishment of an ADF Administrative Review Board.

The establishment of ADFIS and the AMC were key outcomes of the Senate inquiry.

A copy of the report, titled ‘The effectiveness of Australia’s military justice system’, can be found at www.aph.gov.au/Senate/committee/fadt_ctte/completed_inquiries/2004-07/miljustice/report/index.htm

A copy of the Government’s response to the report can be found at http://www.defence.gov.au/mjs/docs/MJI_GOVERNMENT_RESPONSE_4oct052.pdf



→ the Service Police and, in some cases, have served time in a job category other than the Service Police. This is something the Provost Marshal would like to look at changing in the future.

"I'd like to look at a trial of recruiting directly to Investigator; to take an interested ADF member and give them an aptitude test, psychological test and selection board and seeing how they perform. If that person passes all those, why not let them

“One of the advantages we have now is the diversity of the investigations, because of being able to do investigations into other Services. We're learning a lot from each other about how the other Services investigate offences.”

LCDR Bob Dokter, ADF Investigator

come straight in as an Investigator?

There are some really smart people interested in investigations but not necessarily in the general duties policing side," he says.

"We also use a lot of Reservists. It's a really key capability for us and we have Reservists who are former full-time Defence members, plus serving State and Federal police and people from other investigative agencies such as Telstra investigations, crime commissions and the Tax Office.

"One particular thing I see a real future in for our Reserves is cold case investigation. If we've investigated something and not had success with it, it might have just been filed away. I visited the US Navy Criminal Investigative Service (NCIS) last year and they're introducing new cold case procedures using new technology as well as new case review processes. For a Reservist, who may not be able to commit to continuous days, but can take a non-time imperative case away for review, that would be perfect.

"Policing is like computing – it changes every day. Someone will think of a new idea, new technology comes along, and of course there's case law. Something will happen in court that forces the police to change their procedures. We were falling behind in our ability to keep up with best practice policing, but now, because we're a joint agency, we can do that," he says.

With a staff of around 150 Investigators and support staff, including civilians, and a brand-new headquarters, what does COL Grützner think about the role of Provost Marshal?

"It's a great job, I think I've got the best job going."

The Australian Military Court (AMC)

The AMC replaces the Defence Force magistrates and courts martial. It tries more complex or serious Service offences including assault, theft, fraud and drug offences before a military judge and jury and sometimes by a judge alone. A jury is mandatory for more serious military offences, including those in the face of the enemy, mutiny and desertion. Some very serious offences are still referred to civilian jurisdictions.

The AMC strives to strike an appropriate balance between effective discipline and protecting individuals and their rights. It is separate to the Service chains of command and the Chief Military Judge reports to Parliament.

The AMC sits in any location in Australia and may be deployed to operational areas in order to conduct speedy resolution of cases outside Australia. More information: www.defence.gov.au/mjs/organisations.htm#amc

Audit of the Australian Defence Force Investigative Capability (DICA)

The DICA was instigated following one of the recommendations of the Senate inquiry into military justice. Its purpose was to identify what reforms need to be undertaken to provide the ADF with an effective and efficient investigative capability.

It concluded two things: firstly, that the ADF's investigative capability was in serious decline and remediation was unlikely to take less than five years; secondly, that it would be futile to maintain the ADF investigative capability as it stood and that an ADFIS should be formed to operate under joint command.

Defence agreed in whole or in principle to all of the DICA's recommendations and is currently proceeding with implementation. A copy of the report can be found at <http://www.defence.gov.au/publications/spauditreport.pdf> A copy of Defence's response to the report can be found at <http://www.defence.gov.au/publications/spauditreportresponse.pdf>

Inspectors General

Defence has an Inspector General (IG) and an Inspector General ADF (IG-ADF).

The IG provides internal audit services, coordination of the Australian National Audit Office (ANAO) performance audit matters, fraud control and ethics policy and training, the Defence whistleblower scheme and investigations of fraud and unethical behaviour. The Inspector-General is Dr Ian Williams.

The IG-ADF is independent of the ADF chains of command and exercises a general oversight of the ADF military justice system. Mr Geoff Earley, the current IG-ADF, has two roles: to provide CDF with a mechanism for internal audit and review of the military justice system independent of the normal chain of command; and to provide an avenue whereby failures and flaws of the system can be exposed and examined.

More information on the IG-ADF can be found at <http://www.defence.gov.au/mjs/resources/IGADF%20fact%20sheet.pdf>

Defence Civilians

The term 'Defence civilian' is often wrongly applied to Australian Public Service employees of the Department of Defence. In fact, the term has a very specific legal meaning.

A 'Defence civilian' is a person (other than a Defence member) who, with the authority of an authorised officer, accompanies a part of the Defence Force that is outside Australia or on operations against the enemy; and has consented, in writing, to subject himself or herself to the Defence Force Discipline Act while accompanying that part of the Defence Force. In essence, it is a civilian, on operations with the ADF, who has agreed to make themselves subject to the same discipline as ADF members.

Defence Force Discipline Act

The Defence Force Discipline Act (DFDA) came into force in 1982 and forms the legislative basis for Service offences. It also prescribes maximum punishments for a variety of offences, which sentencing officers cannot exceed. All ADF members and Defence civilians are subject to the DFDA, both within Australia and overseas.

Section 61 of the DFDA says that if a Defence member or a Defence civilian commits an act that is an offence in Jervis Bay, that act is an offence under the DFDA.