

## Appendix D Outline of reforms

Defence Instruction (General) Administration 34-1, Inquiries into Matters affecting the Defence Force, was introduced on 22 August 1986. There was limited reference in it to inquiries other than those into matters affecting the Defence Force pursuant to the Defence (Inquiry) Regulations 1985. This remained the case through revisions in 1990, 1993 and 1997.

On 25 November 1997 the Senate referred for investigation the subject of Australia's military justice system to the Joint Standing Committee on Foreign Affairs, Defence and Trade. In its subsequent report, released in 1999, the committee noted the lack of formal guidance for personnel charged with responsibility for conducting military inquiries. It noted the Defence Force Ombudsman's comment that the present guidance was a useful 'ready reckoner' for investigating officers but 'does not represent a comprehensive manual on how to conduct an investigation'.<sup>56</sup> The committee recommended 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 the Defence (Inquiry) Regulations.<sup>57</sup> Recommendations 36, 37 and 38 were as follows:

### Recommendation 36

The Committee recommends that informal investigations should be more appropriately referred to as preliminary inquiries.

### 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.

### 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. [emphasis added]*

Paragraph 4.87, dealing with procedural fairness, began thus:

The ADF needs to have 'access to a discipline system that can be applied expeditiously and in such a way that service discipline is maintained, operations are not impeded and command authority is

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<sup>56</sup> Commonwealth Defence Force Ombudsman, *Own Motion Investigation into How the Australian Defence Force Responds to Allegations of Serious Incidents and Offences*, Commonwealth Ombudsman, Canberra, January 1998, paragraph 35.

<sup>57</sup> Joint Standing Committee on Foreign Affairs, Defence and Trade, *Military Justice Procedures in the Australian Defence Force*, Australian Parliament, Canberra, 1999, Recommendation 13.

supported'. Nonetheless, issues of procedural fairness must be observed and the rights of individuals must be adequately protected during the application of military discipline. In any circumstances where an action under the DFDA [*Defence Force Discipline Act 1982*] may adversely affect an individual, he or she has a right to expect that the principles of procedural fairness will apply ...

Surprisingly, the committee included a chapter dealing with administrative action but not the administration of the DFDA system. It concerned what was described as an 'alternative avenue to institute punitive measures against individuals'.<sup>58</sup> Quite a bit of space was devoted to the question of professional failure, and it was assumed that the 'show cause' procedure would afford procedural fairness.

Following this, Australian Defence Force Publication 202, *Administrative Inquiries Manual*, was issued on 15 May 2000. This document is the predecessor of ADFP 06.1.4. The foreword was as follows:

1. In the course of producing this manual, the Australian Defence Force (ADF) has taken into account the recommendations of the Commonwealth Defence Force Ombudsman, who reviewed the practices and procedures into allegations of serious incidents and offences. More recently, the Joint Standing Committee on Foreign Affairs, Defence and Trade inquired into and made recommendations in relation to the military justice system, including the conduct of administrative inquiries.
2. As a consequence of external and internal reviews of the procedures for administrative inquiries, the purpose of [the] *Administrative Inquiries Manual* is to provide advice and guidance to all personnel who may be required to appoint or conduct or otherwise be involved in one or more or a range of inquiries from unit level through to Boards of Inquiry. Guidance is also provided to Commanders to assist in determining what type of inquiry is appropriate to a wide range of incidents or matters affecting the ADF, and requirements for monitoring and making decisions on the outcomes of those inquiries. This manual is produced to ensure administrative inquiries in the ADF are conducted according to policies and the law, and that the rights and interests of affected persons and other Defence personnel are protected throughout the process.

ADFP 202 was cancelled by ADFP 06.1.4, *Administrative Inquiries Manual*, the first edition of which was issued on 5 January 2004.

Paragraphs 1.35 to 1.37 of ADFP 06.1.4 (1st edn) are as follows:

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<sup>58</sup> *ibid.*, paragraph 5.1

- 1.35 There are a number of very important matters common to the conduct of all types of administrative inquiries that must be taken into account to ensure that mandatory procedural standards are met so that quality outcomes may be achieved.

#### **Administrative law and procedural fairness**

- 1.36 Administrative inquiries conducted by the ADF are subject to external review. In order to protect the rights of individual members and to enhance public confidence in the inquiry process, ADF inquiries must be fair and be seen to be fair.
- 1.37 It is important that ADF inquiries comply with applicable standards of procedural fairness and administrative law. The due process aspects of Natural Justice must be observed throughout the inquiry process. Any member against whom an allegation or complaint has been made is entitled to know the substance of it and have the right to respond. Inquiries must not be conducted without the knowledge of the person or persons against whom allegations or complaints have been made except where to do so may result in the destruction or removal of evidence.

Quick Assessments are dealt with in paragraphs 1.12 to 1.34, and alternative dispute resolution is dealt with in paragraphs 1.5 to 1.6. Routine Inquiries are dealt with in Chapter 4.

The guidance provided is similar to that in ADFP 06.1.3 and similar to that governing Inquiry Officers' Inquiries. In particular, the following appears under the heading 'Natural Justice and Procedural Fairness':

- 4.30 For the purposes of a Routine Inquiry, and especially with respect to personnel matters, there are two rules that are applicable to a Routine Inquiry. These are the Fair Hearing Rules and the No Bias Rule.
- 4.39 **Fair Hearing Rules.** For the purposes of a Routine Inquiry, a subject is entitled to:
- a. Be informed of the substance of any allegations or complaint made against them.
  - b. Have adequate opportunity to respond to any allegation or complaint.
  - c. Access to evidence upon which the Routine Inquiry Officer may rely in formulating recommendations that affect him or her. The subject should be given all the documents that are to be relied upon. Where the Routine Inquiry Officer has reservations about

disclosing the content of any document , a legal officer should be consulted.

- d. The right to have any information provided or any submission made by them considered by the Routine Inquiry Officer.
- e. Expect that any information relating to them will be treated discreetly and to have their privacy respected.
- f. Timely notification of any action or decision which affects them, arising from the allegation or complaint.
- g. Have sufficient opportunity to answer any decision or action that may affect them.

4.32. **No Bias Rule.** The No Bias Rule is that any decision which affects a member will be made by impartial and unbiased decision makers.

4.33 Routine Inquiries are not to be conducted without the person or persons against whom an allegation or complaint is made being made aware of it.

On 14 July 1995 the Chief of the Defence Force had asked the Commonwealth Defence Force Ombudsman to 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. The ombudsman examined a number of other investigations as well in order to focus on systemic problems arising from the way the ADF responds to serious incidents and offences, particularly sexual offences. The ombudsman's report was delivered in January 1998.<sup>59</sup>

The ombudsman dealt with what are now called 'Routine Inquiries' under the heading 'Preliminary Inquiries', in the following way:

- 17. There will always be a need to obtain some information regarding an incident or complaint before deciding how best to resolve it. However, with the exception of the Army guidelines, there is very little guidance on the rules for the conduct of 'informal investigations'.
- 18. In my view, to label investigations as 'informal' can suggest to complainants that the matter is not being treated seriously or authoritatively and/or that their version of events is not believed. It may also encourage a tendency to be less

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<sup>59</sup> Commonwealth Ombudsman, *Own Motion Investigation into How the Australian Defence Force Responds to Allegations of Serious Incidents and Offences*, Commonwealth Ombudsman, Canberra, January 1998.

assiduous about documenting discussions and decisions and the reasons for those decisions.

19. The use of the term 'informal' is a misnomer. Irrespective of the fact that they are not conducted under any statute, and without recourse to formal powers, the actions taken are of an administrative character and can be reviewed. In my opinion, the ADF should use another term, such as 'preliminary inquiries'.
20. In my view, the ADF should:
  - Consider removing all reference to 'informal investigations' in the guidance
  - Amend the Defence Instructions to provide clear guidance on the purpose of preliminary inquiries and the extent to which they can be used, and
  - Amend the Defence Instructions to provide clear guidance on accountability requirements for preliminary inquiries.

The following appeared under the heading 'Procedural fairness':

58. In circumstances where an investigation is instituted which may adversely affect a member, he/she can have a reasonable expectation that the principles of procedural fairness will apply. In my view, this entitles the member to:
  - be informed of any allegations or complaints made against them where any action (for example, an investigation) is to be taken as a result
  - an adequate opportunity to respond to any such allegations or complaint
  - access to any evidence relied upon in making a decision or taking any action which affects them
  - timely notification of any action or decision which affects them arising from the allegation or complaint
  - expect actions or decisions taken as a result of an investigation will be based on logically probative evidence
  - an investigator who approaches his/her task with an open mind and who has no prejudged issues
  - be provided with reasons for any decisions made or actions taken (including the factors considered in reaching a decision and any further action proposed)

- an opportunity to respond to any decision or action which may affect them, and
- the right to have any information submitted by them in response to the action or decision (or intended action or decision) considered.

The allegations that sparked the ombudsman's investigation had been the subject of two successive Service investigations, a hearing in a tribunal presided over by a Supreme Court judge, a complaint to the police, a referral to the Director of Public Prosecutions, and two Federal Court actions. One of the parties had also taken their complaint to the Human Rights and Equal Opportunity Commission. The second Service investigation was the subject of a Federal Court action in which the judge was critical of the report.

On 17 November 1995 the Chief of the Defence Force had commissioned a study of the arrangements for the conduct of trials under the Defence Force Discipline Act by Brigadier the Hon. AR Abadee RFD, Deputy Judge Advocate General. This report was delivered in 1997<sup>60</sup> and in it substantive changes to the then DFDA system were recommended.

On 10 June 1999 the Auditor-General issued the report of a performance audit of the Australian Defence Force by the Australian National Audit Office, dealing with the redress of grievances in the ADF. By then the Defence response to the recommendations was already known. It is not clear how long the audit had taken, but it was a substantial review.<sup>61</sup>

On 15 December 2000 the Chief of Defence of Force appointed the Hon. James Burchett QC as an investigating officer to conduct an audit of military justice in the Australian Defence Force. His report was delivered on 12 July 2001.<sup>62</sup> For present purposes the most significant matter touched on in the Burchett report is that dealing with 'procedural fairness and command prerogative' (paragraphs 260 to 264 and recommendation 54). Consideration of the matter was in the context of the exercise of the command prerogative by a Chief of Service or Superior Commander to remove an officer from a command position. The opinion is expressed that where there was no true urgency the principle of procedural fairness should have priority over the prerogative of command. It was suggested that that would bring the administration of the Defence Force more into line with modern administrative law. The actual recommendation was that 'General policy guidance be developed as to the exercise of the command prerogative, and as to the extent and nature of the observance of the dictates of natural justice which is required in connection therewith'.

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<sup>60</sup> Brigadier the Hon. AR Abadee, *Study into the Judicial System under the Defence Force Discipline Act (DFDA)*, Department of Defence, Canberra, 1997.

<sup>61</sup> Australian National Audit Office, *Redress of Grievance in the Australian Defence Force*, ANAO, Canberra, 10 June 1999.

<sup>62</sup> J Burchett QC, *Report of an Inquiry into Military Justice in the Australian Defence Force*, Department of Defence, Canberra, 2001.

Another topic of interest dealt with in the Burchett report was what were called 'Extras' (paragraphs 134 to 143 and recommendations 12 to 16); see also 'Administrative consequences and administrative action in relation to disciplinary breaches' (paragraphs 158 to 163 and recommendations 23 and 24) and 'Equity and diversity issues' (paragraphs 164 to 170 and recommendation 25). The Burchett report recommended the appointment of a Military Inspector General (paragraphs 265 to 276 and recommendation 55).

On 28 August 2000 the Joint Standing Committee on Foreign Affairs, Defence and Trade decided to examine a range of matters arising out of the annual report of the Department of Defence. Among those was a specific reference to the conduct of military justice and events alleged to have occurred in 3rd Battalion, Royal Australian Regiment, during the period 1996 to 1999. The committee's report on those allegations was presented to the President of the Senate on 11 April 2001.<sup>63</sup> In 1999 the Defence Equity Organisation had produced detailed policy guidance on managing and eliminating unacceptable behaviour in the workplace. The equity system was included in the committee's consideration. The resultant report, *Rough Justice? An Investigation into Allegations of Brutality in the Army's Parachute Battalion*, focused on extra-judicial procedures and illegal punishment, such as bashings and bastardisation, coupled with the use of intimidation to discourage people from speaking out.

The first edition of ADFP 06.1.3, *Guide to Administrative Decision Making*, was issued in August 2003. It does not appear to have replaced any similar guidance, and it raised for the first time the general concept of natural justice applying to administrative decisions. A reading of paragraphs 1.5, 1.6 and 1.9 to 1.11 would have confined the operation of the guidance to adverse administrative decisions in connection with personnel management, but paragraphs 2.39 to 2.41 suggest a wider operation. There is no explanation for the introduction of this instrument.

ADFP 06.1.4, *Administrative Inquiries Manual*, was issued on 5 January 2004. It replaced ADFP 202, to which reference is made earlier. Routine Inquiries are dealt with consistently with the replaced ADFP 202.

On 30 October 2003 the Senate referred the matter of the effectiveness of Australia's military justice system to the Senate Foreign Affairs, Defence and Trade References Committee for inquiry and report. The committee reported in June 2005.<sup>64</sup> The report was comprehensive and critical of the Defence Force reaction to the previous reports and to various other concerns. Some quite radical recommendations for reform were made. The general effect of the recommendations was to increase civilian involvement in what the committee

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<sup>63</sup> Joint Standing Committee on Foreign Affairs, Defence and Trade, *Rough Justice? An Investigation into Allegations of Brutality in the Army's Parachute Battalion*, Australian Parliament, Canberra, 2001.

<sup>64</sup> Senate Foreign Affairs, Defence and Trade References Committee, *The Effectiveness of Australia's Military Justice System*, Australian Parliament, Canberra, June 2005.

described as 'military justice' or at least the adoption of civilian standards and procedures. The focus was very much on the rights of disaffected members of the Defence Force and their families, who had apparently provided most of the submissions. The recommendations were in large measure rights based, with support for natural justice being afforded at all stages.

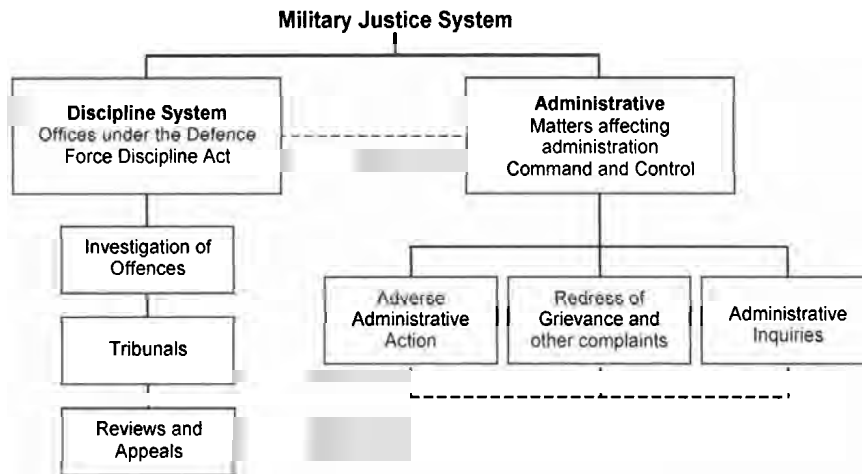
Although the report was said to be dealing with the effectiveness of Australia's military justice system, it ranged far wider than any usual understanding of that system. In my opinion, it is tolerably clear that Australia's military justice system is represented by the *Defence Force Discipline Act 1982* and the Defence Force Discipline Regulations 1985, together with other cognate legislative instruments, as listed in volume 1 of the 4th edition of ADFP 06.1.1. The Committee divided the military justice system into two parts—disciplinary and administrative—the statutory system to which I referred being described as 'disciplinary'. The problem lies with identifying what was described as the 'administrative' component of the military justice system. It was not the administrative processes involved in the disciplinary system. The discussion and recommendations dealt with the redress of grievances of disaffected members of the Defence Force, administrative action that was adverse to a member of the Defence Force and the system of administrative decision making. There was no recognition of the historical distinction between command on one hand and administration on the other, as recognised in ss. 9 and 9A of the *Defence Act 1903*.

It is, of course, perfectly appropriate for a parliamentary committee to review all these aspects of the operation of the Defence Force. Treating these disparate topics as all part of one military justice system can, however, obscure the principles to be applied. In particular, for present purposes, it risks confusion as to the application of administrative law principles. It can be seen to lead to application of the principles of natural justice or procedural fairness for situations that are not, and perhaps ought not to be, subject to those concepts—such as the investigation of criminal or disciplinary offences and ordinary command orders.

Along the same lines, the following section was introduced into the edition of ADFP 06.1.4 issued in June 2006:

- 1.11 The structure and components of the Military Justice System are illustrated in the diagram below.
- 1.12 The solid lines on the diagram represent the framework of the Military Justice System. However, the system may interact together, this interaction is represented by the dotted lines.





- 1.13 The Military Justice System has components covering discipline and administrative action to support ADF policy, inquiries to establish facts and robust provisions for review and complaint. The Military Justice System applies to all ranks, in times of peace and war, whether in Australia or overseas. It provides the ADF with an Australian legal framework able to be applied on operations anywhere in the world.

### The Discipline System

- 1.14 In 1982 the Federal Government introduced the *Defence Force Discipline Act 1982* (DFDA) as part of Commonwealth law. This law became effective on 03 July 1985 and all ADF members are subject to it. The purpose of the DFDA is to maintain and enforce military discipline.
- 1.15 Offences committed by ADF members are prosecuted under the DFDA within the Military Justice System, when the offence substantially affects the maintenance and ability to enforce service discipline in the ADF. Otherwise, criminal offences or other illegal conduct are referred to civilian authorities, such as the Police. The Discipline System includes processes for the investigation of alleged offences. These are conducted in accordance with powers and processes determined by the DFDA. These investigations are usually carried out by service police and are quite separate from administrative inquiries conducted under the Defence (Inquiry) Regulations.

## The Administrative System

- 1.16 The Administrative Inquiries System exists to support the Command and Control of the ADF. Administrative inquiries form part of the Administrative System and do not form part of the Discipline System. The administrative inquiry is an internal process that does not place blame and incriminate members involved for offences under the Discipline System and is not a substitute for punishment of an offence under the Discipline System.

This possible cause of confusion continues to operate. The Defence Force Ombudsman can investigate action that 'relates to a matter of administration' (*Ombudsman Act 1976* (Cth), s. 19C). Under the Defence Act (s. 110C) the Inspector General of the Australian Defence Force has the following functions:

- (a) to inquire into or investigate matters concerning the military justice system;
- (b) to conduct performance reviews of the military justice system, including internal audits, at the times and in the manner the Inspector-General ADF considers appropriate;
- (c) to advise on matters concerning the military justice system, including making recommendations for improvements;
- (d) to promote military justice values across the Defence Force;
- (e) to do anything incidental or conducive to the performance of any of the preceding functions.

Those functions would normally be understood as relating to the military justice system, as represented by the Defence Force Discipline Act and cognate instruments, as described. But DI(G) ADMIN 61-1, Inspector General of the Australian Defence Force—Role, Functions and Responsibilities, proceeds on a much wider view of military justice than that. Consistent with that, in his latest annual report the Inspector General ADF says<sup>65</sup>:

The ADF military justice system may be broadly defined as having four basic elements:

- disciplinary matters under the DFDA
- adverse administrative action
- the conduct (although not necessarily the subject matter) of administrative inquiries and investigations
- the right to complain.

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<sup>65</sup> IGADF, *Report for the Period 01 January 2010 to 31 December 2010*.

It is not clear that an office holder qualified to perform the functions set out in the Defence Act related to the military justice system would always be the right person to oversee administrative matters. There is also the question of demarcation in relation to such matters with the Defence Force Ombudsman. If the status quo is to continue and the Inspector General ADF is to have a role beyond military justice as normally understood, consideration should be given to regularising the situation by amending the Defence Act. I should make it clear that this suggestion is based on a view of the law and not on any policy consideration.

The Australian Government responded to the 2005 Senate Committee report in various stages. A military justice implementation team had been assembled to implement action agreed by the government in respect of the 2005 report, and the head of that team was given a joint directive by the Chief of the Defence Force and the Secretary of the Department of Defence. The committee issued four follow-up reports.<sup>66</sup>

On 29 March 2006 the Defence Force Ombudsman wrote to the Chief of the Defence Force to advise that he had initiated an investigation into the effectiveness of the ADF's management of complaints about unacceptable behaviour. The report was completed in June 2007.<sup>67</sup> The ombudsman made particular reference to the characteristics of good complaint handling systems said to be identified in the then forthcoming *Ombudsman's Better Practice Guide to Complaint Handling*. A number of recommendations were made. The underlying assumption appears to be that equity advisers deal with all aspects of unacceptable behaviour.

In the meantime many other inquiries had been conducted and produced reports—the inquiry into an incident on HMAS *Swan* in 1992<sup>68</sup>; the 2003 Review of Board of Inquiry Processes and Procedures<sup>69</sup>; the 2004 Review of the Military Police Battalion Investigation Capability<sup>70</sup>; the 2004 joint report by the Department of Defence and the Commonwealth Ombudsman<sup>71</sup>; the 2005 Defence Force Ombudsman's own-motion review on the ADF's management of Service personnel aged less than 18 years<sup>72</sup>; the Commonwealth

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<sup>66</sup> Senate, Foreign Affairs, Defence and Trade Legislation Committee, *Reforms to Australia's Military Justice System—first progress report*, August 2006; *ibid.*, *Reforms to Australia's Military Justice System—second progress report*, March 2007; *ibid.*, *Reforms to Australia's Military Justice System—third progress report*, September 2007; *ibid.*, *Reforms to Australia's Military Justice System—fourth progress report*, September 2008.

<sup>67</sup> Commonwealth Ombudsman, *Australian Defence Force: management of complaints and unacceptable behaviour*, Report 04/2007, Commonwealth Ombudsman, Canberra, June 2007.

<sup>68</sup> Report of Board of Inquiry convened by Maritime Commander on 21 December 1992, dated March 1993.

<sup>69</sup> Acumen Alliance, *The Defence Legal Service: Board of Inquiry Management Audit*, Acumen Alliance, Canberra, October 2003.

<sup>70</sup> Ernst & Young, *The Review of Military Police Battalion Investigation Capability*, Department of Defence, Canberra, July 2004.

<sup>71</sup> Department of Defence & Office of the Commonwealth Ombudsman, *Review of the Australian Redress of Grievance System*, Department of Defence, Canberra, 2004.

<sup>72</sup> Defence Force Ombudsman, *Management of Service Personnel under the Age of 18 Years*, Commonwealth Ombudsman, Canberra, October 2005.

Ombudsman's report on the investigation of a complaint by a young person involving unacceptable behaviour at a Navy training establishment in mid-1996—the complaint being made in early 2002 and the report being delivered in October 2004<sup>73</sup>; a Western Australian Coroner's 2002–03 investigation of the HMAS *Westralia* fire<sup>74</sup>; and the 2005 report of a Human Rights and Equal Opportunity Commission inquiry into complaints made by Ms Susan Campbell, that the human rights of her daughter were breached by the Commonwealth of Australia, the complaint having been made before 21 December 2001 (the daughter had been an Air Training Corps Cadet and had committed suicide).<sup>75</sup> Then there was the 2006 Defence Investigative Capability Audit Report<sup>76</sup> and the 2006 Learning Culture Inquiry<sup>77</sup>.

All in all, there has been a period of massive change in military justice. Among other things, the Inspector General ADF, the ADF Investigative Service, the Independent Australian Military Court, the Office of the Director of Military Prosecutions and the Director of Defence Counsel Services had been established. Constitutional challenges to the system had to be confronted.

On 6 March 2008 the Chief of the Defence Force appointed Sir Laurence Street and Air Marshal Leslie Fisher (ret) to conduct a review of the effectiveness of the overhauled military justice system following implementation of the government response to the 2005 Senate Committee report. The 'Street–Fisher report' was delivered on 23 January 2009.<sup>78</sup> It, too, strayed into the administrative system, and it endeavoured to take into account all the previous reports so as to consolidate implementation.

On 26 May 2009 the Chiefs of Service Committee agreed to an implementation plan for the Street–Fisher report.

The second edition of ADFP 06.1.3 was issued in January 2010. It did not represent a major change in direction or philosophy compared with the 2003 edition.

On 30 April 2010 the Chiefs of Service Committee agreed to a review of Defence's system of administrative inquiries. The Chief of the Defence Force directed that a working group conduct the review, and the Steering Committee was to oversee it. The terms of reference were dated 10 May 2010. The report

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<sup>73</sup> Defence Force Ombudsman, *Complaint by a Young Person (under the Age of 18) of an Incident involving Unacceptable Behaviour at a Navy Training Establishment in Mid-1996*, Commonwealth Ombudsman, Canberra, October 2004.

<sup>74</sup> Western Australian Coroner's investigation of the HMAS *Westralia* fire in 2001, 2002–03.

<sup>75</sup> Human Rights and Equal Opportunity Commission, *Report of an Inquiry into Complaints by Ms Susan Campbell that the Human Rights of her Daughter Were Breached by the Commonwealth of Australia under the Convention of the Rights of the Child*, HREOC, Canberra, March 2005.

<sup>76</sup> Australian National Audit Office, *Report on the Audit of the Australian Defence Force Investigative Capability*, ANAO, Canberra, July 2006.

<sup>77</sup> Learning Culture Inquiry, *Report*, July 2006.

<sup>78</sup> The Hon. Sir L Street & Air Marshal L Fisher, *Report of the Independent Review on the Health of the Reformed Military Justice System*, Department of Defence, Canberra, January 2009.

of the review was dated 19 November 2010. I have taken that report into account in preparing my report.

On 11 April 2011 the Minister for Defence announced a series of reviews into aspects of the culture of the Australian Defence Force and the Department of Defence. One of those reviews was to be conducted by the Inspector General ADF, who was to examine the management of incidents and complaints in Defence with specific reference to the treatment of victims, the transparency of processes and the jurisdictional interface between military and civil law. That report was completed on 6 September 2011, and I received a copy of it very recently.

Concurrently with these inquiries and reports the implementation of decisions has required amendments to legislative instruments and guidance documents, which has been a complicated process.

