

**THE LAW SOCIETY
OF SOUTH AUSTRALIA**

13 July 2012

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Committee Secretary

Senate Legal and Constitutional Affairs Inquiry Into *The Military Court Of Australia Bill 2012* and *Military Court Of Australia (Transitional Provisions And Consequential Amendments) Bill 2012*

The Bar Association of South Australia and Law Society of South Australia appreciate the opportunity to comment on the Senate Legal and Constitutional Affairs Inquiry into the *Military Court of Australia Bill 2012* and *Military Court of Australia (Transitional Provisions and Consequential Amendments) Bill 2012*.

The creation of a Chapter III Court to deal with Australian Defence Force (ADF) matters is noted as a policy issue for the Government. The validity of the proposed Court will most certainly be subject to challenge, and it is important for morale and credibility of the ADF that the Court succeeds.

We note that the Law Council has assisted in the development of the Bills, commenting on exposure draft legislation in March 2012 and met with representatives from the Australian Defence Forces and the Attorney-General's Department.

We do not consider that the Bills abrogate the rights of service personnel who will be subject to the operation of the military justice system as a consequence of the operation of these legislative reforms, if enacted. We note the practical difficulties of such a court operating outside of Australia, and the measures to deal with these.

However, we express our concern with the consultation process for the exposure draft legislation, and the limited amount of time provided for feedback, given the complexity and scale of the measures.

Yours sincerely,

Mark Livesey QC
PRESIDENT
SOUTH AUSTRALIAN BAR ASSOCIATION

Ralph Bönig
PRESIDENT
LAW SOCIETY OF SOUTH AUSTRALIA