

**SUBMISSION TO SENATE FOREIGN AFFAIRS, DEFENCE AND TRADE
REFERENCES COMMITTEE: INQUIRY RELATING TO ALLEGATIONS
OF SEXUAL AND OTHER ABUSE IN DEFENCE**

Dr Gary A Rumble

PART II

ANNEXURE 1

9 July 2013

Mr Dennis Richardson AO
Secretary
Department of Defence
Russell Offices
RUSSELL ACT 2600

General David Hurley AC, DSC
Chief of the Defence Force
Russell Offices
RUSSELL ACT 2600

c Defence Abuse Response Taskforce
Robert Garran Offices
BARTON ACT

Dear Secretary Richardson and General Hurley

IDENTIFYING UNREPORTED ABUSE AND CREATING A REPORTING CULTURE IN THE ADF: IMPLICATIONS FOR IMPLEMENTATION OF THE *PATHWAY TO CHANGE* STRATEGY

The *Pathway to Change: Evolving Defence Culture* strategy commits to taking action to develop a 'reporting culture' in relation to abusive conduct in the ADF. This commitment impliedly recognises that the ADF does not yet have a reporting culture. It necessarily follows that there is some unreported abuse.

I offer for your consideration the enclosed paper in which I set out some thoughts and suggestions on some aspects of the related challenges of identifying and dealing with unreported abuse and of creating a reporting culture.

The attached paper is put forward in my personal capacity.

My perspective is informed by:

- ◇ consideration as leader of the *Review of allegations of sexual and other abuse in Defence* of a very large amount of material including some ADF records related to the 1100 or so specific allegations which were before the Review; and
- ◇ findings in many previous reports and inquiries into aspects of abuse in the ADF that there is under-reporting of sexual and other abuse and that aspects of

ADF culture exacerbate factors in general society which discourage reporting of abuse.

In its nature, the problem of under-reporting of sexual and other abuse is silent and does not clamour for urgent attention. However, under-reporting is corrosive in its effects on the well-being of the ADF and its people.

The ADF cannot deal with abuse which it is not aware of. As I explain in the attached paper, it is very likely that in the ADF more than 80% of incidents of sexual abuse are not reported. It is likely that the rate of reporting of non-sexual abuse is also low.

Declarations that the ADF has zero tolerance of abuse carry little force if zero tolerance only applies to the low percentage incidents of abuse which are currently reported.

Creating a reporting culture is complex and it will be difficult to know when the ADF is succeeding. There will always be other urgent and more visible matters which will be demanding attention. However, if you maintain focus and resources on the issues of under-reporting and you succeed in creating a reporting culture you will create a virtuous circle:

- ◇ The ADF will get more information enabling:
 - response to conduct departing from those values
 - identification and management of risk factors
 - support for ADF personnel who have been the victims of abusive conduct.

- ◇ These actions will:
 - demonstrate that the ADF lives by the values which it espouses and is committed to the welfare of its people
 - further encourage reporting which will give the ADF more information to enable actions to reduce and deal with the impacts of abuse.

The paper which I enclose is not a response to, and does not comment on, some recently publicised allegations that members of Army were involved in use of the internet and Defence computers for circulation of material denigrating some females. I have been thinking about the issues of under-reporting for a long time and this paper was in draft before those recent reports.

Because the Defence Abuse Response Taskforce has a role in relation to systemic issues which we identified in the Report of our Review for Phase 2 consideration which overlap with aspects of the *Pathway to Change* strategy addressed in this letter I am also providing a copy of this letter to the Taskforce.

I would be happy to meet with you or your Advisory Committee looking at *Pathway to Change* implementation to discuss the matters covered in this paper or any other matters related to the systemic issues identified in Volumes 1 and the Supplement to Volume 1 of our Report.

Yours sincerely

Dr Gary A Rumble

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PART II

ANNEXURE 2

IDENTIFYING UNREPORTED ABUSE AND CREATING A REPORTING CULTURE IN THE ADF: IMPLICATIONS FOR IMPLEMENTATION OF THE *PATHWAY TO CHANGE* STRATEGY

Dr Gary A Rumble
9 July 2013

INTRODUCTION

The *Pathway to Change: Evolving Defence Culture* strategy commits to taking action to develop a 'reporting culture' – a culture in which victims and witnesses of abuse are encouraged to report abuse.

This commitment impliedly recognises that the ADF does not yet have a reporting culture. The inevitable inference is that some abuse goes unreported.

The *Pathway to Change* is a high-level strategy. It is my understanding that detailed implementation has commenced for some aspects of the strategy. However, I am not aware of any detailed actions to create a reporting culture. In any case, the task of shifting the deeply entrenched cultural factors which have discouraged reporting for decades will not happen quickly and will require ongoing attention.

I offer some comments and suggestions on the related challenges of identifying and dealing with unreported abuse and of creating a reporting culture.

My perspective is informed by:

- My consideration as leader of the *Review of allegations of sexual and other abuse in Defence* of a very large amount of material related to the around 1100 specific allegations which were before the Review including a large amount of ADF records; and
- Our Report's survey of the previous reports on aspects of abuse in the ADF which we were able to locate. A number of those previous reports found that there is under-reporting of sexual and other abuse and that aspects of ADF culture exacerbate factors in general society which discourage reporting of abuse.

The attached paper is put forward in my personal capacity and does not represent the views of anyone other than myself.

I am available to meet with the Secretary and CDF or the Advisory Committee looking at *Pathway to Change* implementation to discuss the matters covered in this letter or any other matters related to the systemic issues identified in Volumes 1 and the Supplement to Volume 1 of our Report.

SUMMARY

By way of background:

I summarise why under-reporting of abuse matters to the welfare of the ADF and its people.

I summarise the generally accepted understanding of:

- the causes of under-reporting of abuse in general society;
- the further cultural factors in ADF environments which exacerbate and intensify pressures not to report.

I set out the material which indicates that:

- More than 80% of sexual assaults in the ADF are not reported.
- It is likely that a similar percentage of other kinds of abuse in the ADF are not reported.

Against that background, I offer some comments and suggestions for dealing with the related challenges of identifying and dealing with unreported abuse and of creating a reporting culture.

Increase in reports of abuse – support for persons reporting abuse

I discuss why increased reporting of suspected or actual abuse should be regarded as a good sign and should be vigorously supported by ADF leadership and by colleagues of persons reporting.

An increase in reports of abuse should be welcomed and supported as indicating that the ADF's commitment to create a reporting culture is working – rather than as indicating that there has been an increase in abuse.

I outline the importance of the ADF giving vigorous and long-term support to individuals who report.

I note that a crucial part of that support will require establishing through the ADF and maintaining over time understanding of:

- the importance of giving support to people who make reports; and
- why - even if the alleged perpetrator is ultimately not found guilty of any wrongdoing - that does not mean that the person making the report did not have a genuine concern which was properly reported.

Why the ADF should seek to identify abuse which has not been reported

I discuss why the ADF should attempt to identify abuse which has not been reported.

A commitment to zero tolerance of abuse is of little value if it only applies to the small proportion of abuse which is reported. The other 80% plus of *unreported* abuse is – in effect – tolerated.

The ADF and its personnel will continue to suffer the adverse effects of abuse being committed against ADF personnel by ADF personnel if the ADF does not identify and take such action as it can in relation to unreported abuse.

How can the ADF identify abuse which has not been reported

I offer some suggestions on what the ADF might do to identify unreported abuse.

A discussion with a former Secretary of the Department of Defence about how to identify victims of abuse who have not reported the abuse – confirmed by my own consideration of detailed histories of the hundreds of individuals whose allegations were before the Review – leads me to suggest some indicators which should enable the ADF to identify victims of abuse who have not reported.

I recommend that the ADF seek advice from experts in dealing with victims of sexual and other abuse to develop an understanding of the kinds of shifts in conduct and personality which signal that sexual or other abuse has been suffered by an individual or a group.

It is my understanding that indicators that an individual or a group in the ADF had been exposed to some unsettling event or events such as abuse could include spikes – either on an individual or group basis - in:

- absenteeism
- disciplinary problems
- off duty problems – bar fights, driving while drunk, domestic altercations
- alcohol or drug abuse
- reporting sick
- failing to achieve required performance standards
- leaving the ADF
- suicide either within or after leaving the ADF.

Similarly *consistent* high rates – rather than spikes - for any of these flags associated with a particular base/ship etc might also alert the ADF to the need to investigate whether there was a problem with abuse at that base/ship.

Of course, it is possible that on investigation it will be ascertained that there was some factor other than abuse – perhaps workload or illness - which had caused a change in conduct/performance. However, that information would also be valuable to the ADF.

Persons who have left the ADF could be a very important source of information about abuse within the ADF. If unreported abuse has been a factor contributing to a person's departure from the ADF, that person – having previously decided not to report the abuse – is not likely to mention abuse in their exit interview.

Accordingly, the absence of references to abuse in exit interviews cannot be relied on by the ADF as indicating that abuse was not a factor in the individual's departure.

I recommend that the ADF with assistance from experts in dealing with victims of abuse:

- develop IT and HR systems to flag indicators that abuse may have occurred; and
- build, resource and maintain a team of appropriate experts to investigate such indicators of possible abuse *promptly*.

These may well be appropriate tasks for the new Sexual Misconduct Prevention and Response Office (**SEMPRO**).

Not all adverse effects of abuse manifest themselves immediately. It is my broad understanding that Post Traumatic Stress Disorder, for example, may not manifest itself until some time after the exposure to stress.

Accordingly, I recommend that in the ADF's development of IT and HR systems to identify possible indicators of abuse for possible further investigation the possibility that there have been significant time lags between the abuse occurring and the adverse impacts on the victim(s) manifesting themselves should also be taken into account.

What can the ADF do with information which identifies that unreported abuse may have occurred

The purpose of these investigations could be:

- to identify and refer indicators of serial and other perpetrators of abuse to appropriate authorities for possible further investigation for criminal prosecution or other action;

However, even if it is not possible to gather enough information to take action against a possible perpetrator and even if a victim does not wish to join in any enforcement process at least the ADF will have some information to enable it to:

- identify individuals – whether still in the ADF or not - who may have been victims of abuse to offer them assistance;
- gather information about risk situations and/or risk individuals so that Command will be better informed and better able to remove or manage risk factors.
- provide information to support allegations of abuse by victims seeking to establish entitlements for DVA benefits.

Restricted reporting (see below) could be very important in combination with this kind of pro-active search for victims who have not reported – especially when the ADF is seeking to gather information from persons who have left the ADF.

Restricted reporting

The Minister for Defence announced on 26 November 2012 that the Government had decided that the ADF will introduce restricted reporting.

I discuss this topic at length because:

- It was one of the few decisions to come out of the Government's responses to the Culture Reviews and our Report for *specific* action which could start to fix under-reporting; and
- Statements made by the CDF to the Senate FADT Committee in March 2013 indicate that the Government decision may not be carried through or may be only nominally implemented with a 'Claytons' version of restricted reporting.

Establishing a reporting culture is fundamental to the welfare of the ADF and its people. Restricted reporting is a tangible and fundamental step in creating that culture.

I recommend that the CDF discuss the realities of the current reporting regime – including the under-reporting - and the rationale for restricted reporting with CPO Angela Ballard who devoted a year on a Churchill Fellowship to this topic.

I recommend that the ADF implement the Government's 26 November decision for restricted reporting with confidentiality and to do so 'as a matter of urgency' as was recommended in Broderick Phase 2.

‘Zero tolerance’, consultation and mixed signals

I recommend that Defence set up continuing processes to hear, and take into account the perspectives of men and women - including people who have left ADF and including past perpetrators of abuse - on issues of sexual and other abuse in the ADF.

I also recommend that the ADF consult with people who work with the victims of abuse in the ADF – counsellors, Rape Crisis Centres, CPO Ballard. DVA - to gain an understanding of:

- what kind of abuse occurs
- how abuse occurs
- why people do not report
- the impacts of abuse on victims.

I recommend that processes for listening to victims and their support agencies should be built into Defence processes long term so that the ADF can continue to engage with the victims and perpetrators and can continue to bring those perspectives into Defence’s thinking and decision-making.

I recommend that the processes for listening also be subject to regular review so that the processes can adapt to changing circumstances.

I set out my concerns about some statements made by the CDF to the effect that the ADF is better than comparable organisations.

My concerns about these statements by the CDF include:

- Other workplaces and Universities are not directly comparable with ADFA or with the ADF generally.
- As far as I am aware there is no solid statistical information providing a basis for such a comparison to be made.

I also have the following concerns which are particularly relevant to the objective of creating a reporting culture

By asserting that the ADF is better than comparable organisations, the zero tolerance message is weakened because:

- The message that the ADF is ‘better’ implies that the ADF is ‘good’ in the area of the rate of sexual abuse. With respect, that is a bad message because it implies that the rate of sexual abuse in the ADF is good.
- The unwavering message should be that the only acceptable rate of sexual abuse in the ADF is zero.

Further – by asserting that the ADF is good and better than comparable organisations, General Hurley may discourage reporting by some victims because:

- If the CDF makes public declarations that the rate of sexual abuse is ‘better’ than the rate of sexual abuse in other organisations, victims will know that if they do report they will be undermining the CDF’s public message that things are better in the ADF; and
- Victims may fear that if they do report they will not be believed because the CDF has declared that the ADF is ‘better on this issue.

I confirm that I would be happy to meet with the Secretary and CDF or the Advisory Committee looking at *Pathway to Change* implementation to discuss the matters covered in this letter or any other matters related to the systemic issues identified in Volumes 1 and the Supplement to Volume 1 of our Report.

My fuller discussion of these issues follows.

WHY UNDER-REPORTING OF SEXUAL AND OTHER ABUSE IN THE ADF MATTERS

1. The *Pathway to Change* strategy acknowledges that there is a problem of under-reporting to be addressed.
2. If there were never *any* sexual or other abuse in the ADF, then a low rate of reporting may not be a major problem.
3. However, whatever the level of abuse in the ADF is, it is clearly not zero and it clearly cannot be assumed that there will never again be abuse in the ADF. See Chapter 2 and Chapter 6 of Volume 1 of our Report and the Supplement to Volume 1. I particularly draw attention to the discussion of the results of Unacceptable Behaviour Surveys conducted in the ADF from 2000 to 2009 discussed in Volume 1 Appendixes 22, 24, 25 and 26.
4. Under-reporting of abuse in the ADF matters because:
 - ◇ If an incident is not reported, the victim will not get the assistance which he/she needs and as a result:
 - may not be able to function effectively as a member of the ADF; and
 - may suffer damage to their health and well-being with consequences for themselves and their family.
 - ◇ If an incident is not reported neither the ADF nor relevant law enforcement authorities can take action to deal with the perpetrator and the perpetrator may commit other abuse and inflict further damage.
 - ◇ If other members of the ADF are aware that abuse committed on other members of the ADF is not likely to be reported, those members of the ADF who are inclined to engage in such conduct may be more likely to take the risk of abusing other members of the ADF.
 - ◇ If the ADF is unaware of an incident, then it cannot review the adequacy of:
 - actions of individuals in the chain of command
 - systems
 - trainingand it cannot act to reduce the risk of similar incidents occurring.

- ◇ If Comcare is unaware of an incident, then it cannot consider whether there has been any failure to meet legislated workplace safety standards and/or to suggest improvements in workplace safety systems.
 - ◇ If an incident is not reported, then the victim may leave the ADF – with consequent loss of the cost of their training and their potential to contribute - because:
 - their ability to function effectively has been damaged; and/or
 - they wish to get away from the environment in which the incident occurred or to get away from the person or persons who abused them.
 - ◇ If a member of the ADF has abused another member of the ADF and not been called to account for that abuse, that will weaken the trust needed for those individuals to rely on one another in training and operational situations where their own lives and other ADF members' lives may be at risk.
 - ◇ If members of the ADF are aware that there is a gap between the espoused values and culture of the ADF and the actual behaviour of members of the ADF, then morale of members of the ADF and commitment to act consistently with the espoused values may be adversely affected.
5. These effects of under-reporting should be well-known and well understood.
6. There is another aspect of the effects of under-reporting which may not be so well-known but which is also fundamental to the wellbeing of the ADF and its people – and this is the negative cycle which may be driven by under-reporting of sexual abuse against female members of the ADF: -
- ◇ The minority position of females within the ADF is a factor which increases the risk of that they will experience abuse. (See Chapter 2 of Volume 1 of our Report.)
 - ◇ The ADF is committed to increasing the percentage of the ADF who are female.
 - ◇ However, under-reporting of abuse against female members of the ADF undermines the ADF's efforts to increase the percentage of females beyond the minority status which tends to keep them as an 'at risk' group in the ADF:
 - The less reporting there is of abuse against female members of the ADF, the less potential there is for effective response to abuse which occurs.

- The less effective is the response to abuse against females in the ADF, the more likely it is that female members of the ADF will experience abuse.
 - The more that female members of the ADF experience abuse, the more likely it is that they will leave the ADF.
 - The greater is the perception amongst potential female recruits that the ADF does not effectively prevent and/or respond to abuse against female members of the ADF, then the less likely it is that females will be inclined to join the ADF.
 - The lower the rate of retention of female members of the ADF and the lower the rate of recruitment of females into the ADF, then the lower will be the percentage of females in the ADF.
7. I note that there have been recent announcements indicating that ADF efforts to increase the percentage of females in the ADF have had some success. However, the percentages of females are still only in the low 20s across the three services. Those percentages still leave females as a minority.
8. Furthermore the success in recruitment of females into the ADF will mean – in the short term - that they are more heavily represented in the more junior ranks. As we noted in our Report, the more junior ranks are more vulnerable to abuse. So the increasing representation of females in junior ranks carries its own abuse risks.
9. And success in recruitment of females will not have completely succeeded until solid rates of retention of females in the ADF are also entrenched.
10. Accordingly, the recent success in recruitment cannot be taken as a sign that issues of abuse of females in the ADF have been solved yet. Furthermore, even if the trends in recruitment and retention of females continue to trend upwards, if under-reporting is not addressed it will be a drag on those positive trends.

THE CAUSES AND EXTENT OF UNDER-REPORTING OF SEXUAL AND OTHER ABUSE IN THE ADF

11. Developing and giving effect to the foreshadowed detailed plan for implementation of *Pathway to Change*, should be informed by an understanding of why there is under-reporting and how extensive the under-reporting is.
12. Our Report did give some consideration to *why* there is under-reporting. See especially Chapters 2, 4, 5 and 6 of Volume 1 and the Supplement to Volume 1 of our Report. In Chapter 2 of Volume 1 of our Report (page 21) we noted and provided references to material indicating that:

It is well established that, in the general community there is a very low rate of reporting by females of sexual assault against them. It is also established that males who are the victims of sexual assault are even less likely to report than are female victims of sexual assault. [references provided]

13. In the general community reasons for not reporting sexual assault include:
 - ◇ embarrassment and shame;
 - ◇ desire not to distress a partner or family;
 - ◇ concern that a person reporting sexual assault will not be believed
 - ◇ concern that a person reporting may be subject to hostility from friends and family of the perpetrator
 - ◇ concern about the consequences of reporting for the perpetrator and/or the perpetrator's family
 - ◇ reluctance to be involved in an enforcement process which would require them to go through a process of providing statements and court cross-examination;
 - ◇ lack of confidence that any enforcement action will result in effective action against the perpetrator.
14. In Chapter 2 we noted that:

Many previous reports have found that the factors which discourage reporting of sexual assault in the general community have been reinforced by other factors in ADF environments which discourage reporting of either sexual *or physical assault*. [emphasis added]
15. In Chapters 4, 5 and 6 of Volume 1 of our Report and in corresponding Chapters of the Supplement we surveyed the reports of previous inquiries into matters related to abuse in the ADF. Many of those reports referred to aspects of ADF cultures which discouraged reporting by victims or witnesses.
16. A major cause identified in those reports is the importance which members of the ADF attach to loyalty to their unit/ship/Service etc part of and to the ADF in general.
17. Reporting abuse has been seen as disloyal conduct which damages the unit/ship/Service etc and the ADF in general.
18. This aspect of culture has been very strong. For example the 1998 Grey Report on ADFA (at 1.132) identified 'the culture of not "jacking" on one's mates' as having the result that at ADFA at that time other cadets would not intervene when one cadet was sexually assaulting another cadet 'despite evidence such as struggling and screaming'.

19. The accounts of individuals and Defence file material which I saw when preparing Volume 2 were consistent with the conclusions in previous reports about what aspects of ADF culture discouraged victims and witnesses of sexual and other assault from reporting and why victims and witnesses were reluctant to report.
20. On the question of the *extent* of under-reporting – see Chapters 4, 5 and 6 of Volume 1 and the Supplement to Volume 1. In Chapter 2 of Volume 1 of our Report (page 21) we noted that:

Justice Marcia Neave of the Court of Appeal of the Supreme Court of Victoria was reported in *The Age* on 8 September 2011 ... providing the following statistics ‘fewer than 20 per cent of sexual assault victims report the offences to the police’ ...

21. In Chapter 6 of Volume 1 of our Report (sections 6.5 and following) we discussed the problems of estimating levels of unreported abuse and our reasons for concluding that

Finding 19

It is likely that a substantial number of people who have been the victims of sexual or other assault in the ADF have not reported that assault to anyone.

Finding 20

It is likely that a substantial number of incidents of abuse – including sexual and other assault – in the ADF have not been reported over the years of the Review.

22. I am not aware of any reason for thinking that the deeply entrenched aspects of general societal and ADF specific cultures which have for decades discouraged reporting of sexual and other assault and abuse in the ADF have been resolved *yet*.
23. There have from time to time been strong statements from high levels in the ADF of zero tolerance for sexual or other assault or abuse. However, it is quite clear from the reports which we surveyed in our Report that such declarations have not been sufficient in the past to prevent such conduct occurring and have not been sufficient to overcome the cultural aspects which discourage reporting.
24. In my opinion it is very likely that the rate of reporting of sexual assault in the ADF has been well below 20% because:
 - ◇ the statistics referred to by Justice Neave indicate that in the general community fewer than 20% of sexual assault victims report to the police; and

- ◇ many reports over decades have consistently found that factors in the general community which discourage reporting to police of sexual assault are reinforced by aspects of ADF cultures which further discourage reporting of sexual and physical assault; and
 - ◇ the specific information including - for some cases - detailed records which I saw while considering specific allegations which were before the Review of documenting what people experienced when they did make a report and the reasons which people gave to the Review explaining why they had not previously reported
25. Given that there is no reason to think that the entrenched aspects of ADF culture which have discouraged reporting for decades have been transformed by anything which has occurred over the last couple of years it is my opinion that the rate of reporting of sexual assault in Defence *continues to be* less than 20%.
26. That is – it is likely that more than 80% of sexual assault in the ADF goes unreported.
27. I cannot suggest a *specific* percentage for the rate of under-reporting of *other* kinds of abuse in the ADF. However, in my view, it is likely that there is also considerable under-reporting of other kinds of abuse because:
- ◇ many reports over decades have consistently found that factors in the general community which discourage reporting to police of sexual assault are reinforced by aspects of ADF cultures which further discourage reporting of sexual *and* physical abuse; and
 - ◇ the specific information including - for some cases - detailed records which I saw while considering specific allegations which were before the Review of documenting what people experienced when they did make a report of abuse and the reasons which people gave to the Review explaining why they had not previously reported abuse.
28. As noted above, there are no grounds for believing that the rate of sexual and other abuse in the ADF is zero or will never occur again.
29. In summary it is clear that under-reporting of sexual and other abuse in the ADF represents a very significant ongoing issue for the ADF.
30. I recommend that the detailed implementation plan for *Pathway to Change* strategy should plan and prioritise actions on the basis that the overwhelming majority of abuse in the ADF is not currently reported.

INCREASED REPORTING OF SUSPECTED OR ACTUAL ABUSE SHOULD BE REGARDED AS A GOOD SIGN AND SHOULD BE VIGOROUSLY SUPPORTED BY ADF LEADERSHIP AND BY COLLEAGUES OF PERSONS REPORTING

31. No doubt some in the ADF will look on a report of an incident of abuse or suspected abuse as bad news.
32. There is no doubt that media coverage and commentary which typically follows a public report of abuse can damage the ADF's reputation and can result in distress for ADF members and their families.
33. However, if abuse or suspected abuse is not reported, then Command and others cannot respond to abuse and all of the problems which flow from under-reporting are compounded.
34. An increase in the number of incidents of abuse which are reported *could* mean that there has been an increase in abuse.
35. However, for the reasons set out above, it is clear that the current rate of reporting of abuse is very low. Once that background is understood, it must also be understood that an alternative possible explanation for increase in the rate of *reporting* of abuse is that there has been some success in creating a reporting culture.
36. It is fundamental to any effective program to change behaviours across a large organisation – be it for privacy, general workplace safety or preventing abuse – that an increase in rate of reports of incidents must be welcomed as a healthy sign of awareness of the importance of the issue and confidence that the organisation is committed to dealing with the issue.
37. To create a reporting culture within the ADF, it is imperative that ADF personnel understand that the leadership of the ADF wants incidents of abuse or suspected abuse to be reported – even if some in the ADF regard such reports as bad news.
38. To create a reporting culture within the ADF it is imperative that the leadership ensures that anyone who does report suspected abuse – whether as a victim or as a witness - is vigorously and sensitively supported and protected from adverse consequences.
39. It is particularly important that, even if an allegation of sexual abuse is ultimately not proven to the level of proof required to get a criminal conviction or to take other serious action against the alleged perpetrator, that should not by itself be construed by Command or anyone else in the ADF as indicating that the person who made the allegation was not genuine.
40. From the materials which I have perused in the course of preparing Volume 2 and from the previous reports which are surveyed in Volume 1 of our Report, it is clear that some individuals who have been brave enough and principled

enough to report abuse in the ADF, have not been supported – or after initial support, were not supported long term - and have suffered badly as a result. The ADF has also suffered because that failure of support discourages other reports.

41. A common story through many of the histories which I read – including file notes from supervisors etc – was that a person who had made a report then found themselves isolated, and/or treated with hostility from, those they worked with.
42. There was often impatience and annoyance from others around them including immediate supervisors that the individual did not just get over it and get on with their usual duties. This annoyance then sometimes carried over into putting the individual into stressful situations such as working near an alleged perpetrator to demonstrate to the victim that they did have to ‘get on with it’ and/or as demonstrating that the alleged perpetrator was ‘innocent until proven guilty’.
43. At the time when the victims most needed support and sensitivity, they were given a message that by reporting *the victims* had caused problems for their supervisors, their peers and for their part of the ADF and they were treated harshly for reporting.
44. This had destructive consequences for many individuals who had reported abuse. It also had destructive consequences for the ADF because it discouraged reporting.
45. Obviously it is difficult for Command to identify or control behaviour such as isolating conduct and hostility by members of a group directed to an individual who has reported.
46. However, if the ADF is to succeed in establishing a ‘reporting culture’ the leaders will need to address how to get personnel across the ADF to understand *and to act to ensure* that individuals who have had the courage to report alleged abuse should be positively supported *regardless of whether the alleged perpetrator is ultimately found ‘guilty’*.
47. It is a common community misconception – and it was a misconception which I saw in some of the materials which I saw when preparing Volume 2 of our Report – that false reporting of sexual assault is widespread and accordingly that any report of sexual assault should be looked at with a high degree of scepticism and suspicion.
48. Crucial aspects of the message to ADF personnel about the need to give positive support to people who have reported abuse, should be that:
 - ◇ It is likely that most sexual assault – more than 80% - and much other serious abuse goes unreported in the general community and in the ADF.

- ◇ Under-reporting of sexual assault and other abuse is very destructive for the ADF and its people for the reasons set out above.
- ◇ For the good of the ADF, reporting needs to be encouraged and supported positively.
- ◇ According to the experts, false reporting of sexual assault is very rare – less than 2%.
- ◇ It is quite possible – and happens much more often than not in criminal prosecutions of sexual assault allegations – that allegations which prosecuting authorities considered to be well-founded and supported by evidence do not result in a conviction. (See Chapter 2 of Volume 1 of our Report.) There are lots of reasons – including the high standards of proof required, assertions by the perpetrator that he believed there was consent - why an alleged perpetrator may not be found guilty without indicating that the complainant was not genuine. Accordingly, acquittal of the alleged perpetrator should not be taken as indicating that the complainant did not have a genuine basis for the complaint based on the complainant's perception of what occurred.

WHY THE ADF SHOULD ATTEMPT TO IDENTIFY ABUSE WHICH HAS NOT BEEN REPORTED

49. The ADF has given a lot of attention to how to respond to allegations of abuse which are reported.
50. However, as far as I am aware the ADF has not yet addressed the puzzle of how to deal with abuse which has *not* been reported. No doubt there will be some within the ADF and within the general community who will assume that if victims and witnesses (if any) do not report, then there is nothing that the ADF *can* do.
51. That is an understandable first response.
52. However, a commitment to zero tolerance of sexual and other abuse is of little value if it only applies to the small minority of abuse incidents which are reported.
53. If the ADF does not seek to identify and deal with unreported abuse it is – in effect – tolerating that abuse and the ADF and its personnel will continue to suffer the adverse effects of abuse.
54. Furthermore, given that:
 - ◇ the ADF and those in the Chain of Command are aware or should be aware that more than 80% of sexual assaults and high proportion of other abuse are not reported in the ADF;

- ◇ the ADF and those in the Chain of Command should be aware of the kinds of changes in individuals which could indicate that the individual has suffered an incident of abuse,

a failure by the ADF and individuals in the chain of command to seek to identify abuse and respond to changes in individuals consistent with abuse having occurred may mean that in some circumstances the ADF and individuals in the Chain of Command:

- ◇ are liable for breaching legislative workplace safety standards; and/or
- ◇ are liable to tort damages for negligence.

WHAT CAN THE ADF DO TO IDENTIFY ABUSE WHICH HAS NOT BEEN REPORTED?

55. Defence does have available to it indicators which should flag possible abuse incidents for investigation and response *even if* the victim(s) and witnesses (if any) have not reported.
56. My thinking on this question started with my consideration of particular allegations before the Review which I led of plausible allegations where the alleged abuse suggested that the perpetrator(s) may have been a serial perpetrator(s).
57. In preparing recommendations for actions on specific allegations where the alleged conduct suggested a propensity on the part of the perpetrator to engage in such conduct, I gave thought to what lines of inquiry could be open in Phase 2 - for the ADF, ADFIS, a relevant State or Territory Police Force or a Task Force set up for the purpose as the case may be - to investigate to see whether the alleged perpetrator had other unreported victims.
58. If potential serial perpetrator(s) could be identified, then there would be:
 - ◇ better prospects of successful criminal prosecution or other action against the perpetrator(s); and
 - ◇ a basis for identifying other individuals who may have been victims of the same perpetrator(s) to offer them assistance; and
 - ◇ corroborating information to support allegations of abuse by victims seeking to establish entitlements for DVA benefits.
59. What I put forward now for Defence' consideration represents development of some suggestions which have grown out of a conversation which I had during the Review with a former Secretary of the Department of Defence on the problem of how to look at the possibility that there had been other unreported victims of particular alleged perpetrators.

60. The former Secretary's suggestion was that possible serial perpetrators and/or their victims might be identified by searching Defence records for signs that there was a significant change in patterns of conduct of vulnerable personnel at a particular point in time and/or on a particular base/establishment/ship.
61. The former Secretary's suggestion was reinforced by the voluminous materials I reviewed when preparing Volume 2 of our Report. The materials which I read in many cases included service records, correspondence and reports in relation to hundreds of individuals whose allegations of abuse and/or Defence mismanagement were before the Review.
62. This material showed that there were often clear changes within a few weeks after the alleged incident of abuse in the individual's history in the ADF.
 - ◇ Where an individual had been the victim of abuse and did not report the abuse, the individual would sometimes look for ways to escape the situation and/or to avoid contact with the perpetrator.
 - ◇ Where an individual had been the victim of abuse and reported the abuse and the response was dismissive or the victim's concern was trivialised and/or they suffered hostility and isolation from other members of the ADF *because* they had reported, then the individual would sometimes look for ways to escape the situation and/or those who were treating them with hostility and/or avoid contact with the perpetrator.
 - ◇ Where an individual had been the victim of abuse, then often their ability and/or commitment to perform their tasks and/or complete their training satisfactorily would be impaired.
 - ◇ For those who wanted to leave the ADF because of the abuse but were ashamed of what had happened to them and/or did not want their family or anyone else to know what had happened to them, they sometimes fell into behaviours which would provide an explanation they could give to their families and others when the ADF dismissed them or required them to leave the ADF.
63. Against that background, it seems to me that possible indicators that an individual or a group had been exposed to some unsettling event or events such as abuse could include spikes – either on an individual or group basis - in:
 - ◇ absenteeism
 - ◇ disciplinary problems
 - ◇ off duty problems – bar fights, driving while drunk, domestic altercations
 - ◇ alcohol or drug abuse

- ◇ reporting sick
 - ◇ failing to achieve required performance standards
 - ◇ leaving the ADF
 - ◇ suicide either within or after leaving the ADF.
64. I recommend that the ADF seek advice from experts in dealing with victims of sexual and other abuse to develop an understanding of the kinds of shifts in conduct and personality which signal that sexual or other abuse has been suffered by an individual or a group.
65. For these purposes the ‘group’ could be not only a vulnerable group on a particular base/ship/establishment etc but also a group who are brought together for a training course or exercise and then return to their base/ship/establishment etc
66. Similarly if on a particular base/establishment/ship or after involvement in particular training course, there was a *consistent* high rate rather than a spike for any of the flags referred to above – absenteeism, etc - that consistent pattern may indicate that there was a problem with the conduct of particular individuals at the base/establishment/ship and/or that there was problem with the culture and/or systems of the base/establishment/ship.
67. Persons who have left the ADF after a change in their patterns of conduct and performance could be a very important source of information for the ADF on abuse.
68. Individuals who have not reported abuse and who then leave the ADF to get away from abuse are not likely to refer to the abuse in an exit interview because if they did bring up an abuse allegation in an exit interview, that could:
- ◇ trigger the very processes and exposure which they had decided not to trigger when they decided not to report the abuse in the first place; and
 - ◇ would delay their departure from the ADF.
69. Accordingly, it is clearly not sufficient to rely on the absence of reference to abuse in an exit interview to conclude that abuse was not a factor in an individual’s departure from the ADF. Follow up interviews over time with former ADF personnel may be needed before any information is provided.
70. Obviously people who have previously decided not to report abuse will need to be approached with subtlety and sensitivity by persons expert in this kind of investigation if they are to be persuaded to provide information about what happened to them.

71. Possible lines of investigation could include:
- ◇ interviewing colleagues of individuals whose conduct changed;
 - ◇ questioning NCOs who were in close contact with the personnel and who may have better knowledge of what was going on amongst lower ranks under training than would the Commanding Officer. (Of course, it would be crucial to be very careful about such an approach because an NCO who is in close contact with junior ADF personnel undergoing training could actually be a perpetrator of abuse.)
 - ◇ making a series of approaches over time to the individual who might have been abused to build their confidence and to increase the chances of giving them someone to speak to when they were ready to talk.
72. Accordingly, I recommend that the ADF with assistance from experts in dealing with victims of abuse:
- ◇ develop IT and HR systems to flag indicators that abuse may have occurred; and
 - ◇ build, resource and maintain a team of appropriate experts to investigate such indicators of possible abuse.
73. These may well be appropriate tasks for the new Sexual Misconduct Prevention and Response Office (**SEMPRO**).
74. I add as a proviso to the commentary above – not all adverse effects of abuse manifest themselves immediately. I am not an expert in these areas but it is my broad understanding that Post Traumatic Stress Disorder, for example, may not manifest itself until some time after the exposure to stress. From the records which I read while preparing Volume 2 of our Report, it seems that many individuals managed to ‘hang on’ – sometimes for decades - and keep performing for a long time despite having experienced abuse including – in some cases – very serious sexual assault.
75. Accordingly, I recommend that in the ADF’s development of IT and HR systems to identify possible indicators of abuse for possible further investigation, consideration be given to the possibility that there have been significant time lags between the abuse occurring and the adverse impacts on the victim(s) manifesting themselves.

WHAT CAN THE ADF DO WITH INFORMATION WHICH IDENTIFIES THAT UNREPORTED ABUSE MAY HAVE OCCURRED

76. The purpose of these investigations could be *any* or all of the following:
- ◇ identify individuals – whether still in the ADF or not - who may have been victims of abuse to offer them assistance;

- ◇ gather information about risk situations and/or risk individuals so that Command will be better informed and better able to remove or manage risk factors.
 - ◇ to identify and refer indicators of serial and other perpetrators of abuse to appropriate authorities for possible further investigation for criminal prosecution or other action;
 - ◇ provide information to support allegations of abuse by victims seeking to establish entitlements for DVA benefits;
77. I emphasise that each one of these outcomes is worth pursuing in its own right. I particularly emphasise that *even if* there is no realistic prospect of gathering enough evidence to get a criminal or Defence Force Discipline Act conviction, it should still be worth identifying victims of abuse so that they can be assisted and/or so that circumstances which contributed to abuse occurring can be understood and removed or managed.
78. Restricted reporting could be very important in combination with this kind of pro-active search for victims who have not reported – see below.

RESTRICTED REPORTING

79. I discuss this topic at length because:
- ◇ It was one of the few decisions to come out of the Government's responses to the Culture Reviews and our Report for *specific* action which could start to fix under-reporting; and
 - ◇ There are some signs that there the Government's decision announced 26 November 2012 last year that the ADF will introduce restricted reporting may not be carried through or may be only nominally implemented with a 'Claytons' version of restricted reporting.
80. In 2011 I drew to the attention of the other Culture Reviews (including the Broderick review), the important paper *Sexual Assault Prevention and Intervention in a Military Environment* prepared by Churchill Fellow Reserve Chief Petty Officer Angela Ballard.
81. CPO Ballard has had extensive experience working with victims of sexual assault in the ADF. With the support of a Churchill Fellowship she had visited and spent time with the Defence Forces in other countries where the Defence Forces have restricted reporting.
82. At the centre of restricted reporting is the principle that a victim of sexual assault can report on a 'restricted' basis: that is, a victim can report the assault on a confidential basis – and receive medical treatment and counselling assistance, and have forensic evidence collected - but the incident is not reported to criminal or disciplinary authorities for investigation for prosecution unless the victim agrees to lift the confidentiality restriction.

83. It is important to clear up a misconception which some people seem to have about restricted reporting: - restricted reporting does not require that Command not be given *any* information about the nature of the incident which has occurred.
84. Restricted reporting requires confidentiality. But it can be, and usually is, consistent with restricted reporting that Command can be informed that there has been an incident and that Command is given sufficient information – without comprising confidentiality – about the general nature of the incident to enable some steps to be taken to reduce the prospects of a further incident.
85. For example, the personnel involved in taking the restricted report could alert Command that:
 - ◇ there should be increased supervision and/or security patrolling either generally or in some particular areas of the base/establishment; and/or
 - ◇ there should be checks on locks on doors or windows to ensure that they are functioning and locked properly.
86. The men and women who hold positions of Command may be keen to take some decisive action once they are informed that there has been an incident. However, if they do something too decisive that may alert a perpetrator that there has been a report.
87. The implementation of restricted reporting regime will require education of ADF personnel to explain the importance of confidentiality in restricted reporting to create a reporting culture.
88. So long as SEMPRO is properly resourced and given appropriate authority to do so it should have a central role in developing and running restricted reporting.
89. In Volume 1 Chapter 7 (pages 135-139) of our Report we discussed the strong case in favour of restricted reporting. We were aware from our previous discussions with him that IGADF Earley was opposed to restricted reporting. When we prepared Volume 1 of our Report in October 2011 we had not seen the IGADF's report but we addressed his concerns and addressed his concerns as he had explained them to us.
90. As I understand it, the IGADF's opposition to restricted reporting is based on the arguments that:
 - ◇ Restricted reporting will mean that forensic evidence is not collected and properly maintained because the ADF does not have capability to gather and preserve evidence.
 - ◇ Command has a duty of care and needs information so that action can be taken to deal with sexual assault and other abuse.

- ◇ The ADF cannot be in the position of having perpetrators of sexual assault in the ranks without Command being able to take any action.
91. In my view the answers to the IGADF's concerns and the case for restricted reporting are overwhelming.
- ◇ The IGADF's concern for gathering and preserving evidence puts too much emphasis on criminal and DFDA prosecution. Very few rape cases are reported – very few reported cases go to trial and even fewer result in conviction.
 - ◇ It is well within the capability of the ADF to set up a restricted reporting regime which includes arrangements for gathering and preserving forensic evidence for possible prosecution. Rape kits are available to ADF personnel to gather evidence on ships at sea and on deployment. If ADF does not have capability to gather and protect evidence of rape it should get it.
 - ◇ In answer to the IGADF's concerns about duty of care and being able to deal with known perpetrators – the IGADF seems to be unaware of the entrenched reality of under-reporting. The IGADF's position leads to the perverse outcome: - it is better for Command not to have *any* information to assist them to protect their people than it is for Command to have incomplete information – it is better for Command not to know that there are suspected perpetrators of sexual assault in the ranks than it is for Command to know that there are perpetrators in the ranks and to be able to manage that known risk.
 - At present Command does not get enough information to enable it to protect its people and Command and other authorities do not get enough information to deal with perpetrators in the ranks because *more than 80% of the victims of sexual assault in the ADF do not report the assault at all.*
 - Major factors contributing to this under-reporting are that victims do not want to be subjected to the stress of a drawn out and generally ineffective criminal justice system and do not want to attract the hostility and isolation from other members of the ADF and possible direct harassment and retribution from the friends of the perpetrator that can follow if it is known that they have made an accusation of serious criminal conduct against that fellow ADF member(s).
 - Because most victims of sexual assault in the ADF do not report the assault, all of the problems which are caused by under-reporting continue to work away corrosively to damage the individual victims and the ADF.

- ◇ Under the restricted reporting regime, victims can report on a confidential basis without automatically exposing themselves to the ordeal of triggering the criminal justice or disciplinary processes.
 - ◇ Because they can report on a confidential basis and have control over whether the matter is reported for criminal or DFDA prosecution, victims of abuse are more likely to report shortly after an incident with the result that:
 - *more* victims will get the prompt counselling and other assistance which is so crucial to their recovery;
 - *more* victims will report and – having been given back the control which is crucial to recovery of a victim of sexual assault – some of these will have the confidence to lift the confidentiality restriction and allow the report to be passed on for possible criminal or DFDA prosecution;
 - evidence can be collected while it is still fresh and can be used in criminal or DFDA Act prosecutions later when/if the victim agrees to lift the restriction.
 - usually it will be possible for some information – without disclosing identities - to be given to Command about the nature of the incident and about the circumstances so that Command can manage the risk.
92. The August 2012 report of the *Review into the treatment of women in the Australian Defence Force (ADF) - Phase 2* conducted by the Federal Sex Discrimination Commissioner Ms Elizabeth Broderick (**Broderick Phase 2**) included as Recommendation 19:
- As a matter of urgency, the ADF should investigate mechanisms to allow members to make confidential (restricted) reports of sexual harassment, sex discrimination and sexual abuse complaints through SEMPRO.
93. I draw attention to the opening phrase: - *As a matter of urgency ...*
94. On 26 November 2012 the Minister for Defence announced the Government Responses to our Report and to Broderick Phase 2. The statement identified as the second of six ‘key recommendations’ to be implemented:
- Implementation of restricted reporting, so that personnel can make confidential reports of sexual harassment, sex discrimination and sexual abuse (which was also recommended by the DLA Piper Review).
95. I was concerned to hear the CDF inform the Senate Foreign Affairs, Defence and Trade Committee on 14 March 2013:
- We are looking very seriously through SEMPRO at introducing restricted reporting of sexual offences in the ADF. There are pros and cons to doing that in terms of support for the victim on the one hand but not then disclosing offenders

who could then repeat before we move. So we have a duty of care in relation to that as well. Again, that is an issue that is being very seriously looked at in the present time and we will settle on a point somewhere on that continuum and put that into effect.

96. The Government's decision announced on 26 November 2012 was unqualified – there was to be restricted reporting ‘ so that personnel can make confidential reports of sexual harassment, sex discrimination and sexual abuse ...’.
97. The CDF's introduction – ‘We are looking very seriously ... at introducing restricted reporting’ seems to treat the introduction of restricted reporting as a question to be explored by the ADF.
98. The CDF does go on to finish this comment by saying that *something* will be put into effect. However, the CDF's suggestion that the pros of getting support for victims needs to be weighed against the cons of ‘not then disclosing offenders who could then repeat before we move’ seems to indicate that he is considering rejecting the guarantee of confidentiality which is the core of restricted reporting.
99. To have a version of reporting which does not have that core guarantee of confidentiality would not be restricted reporting.
100. The CDF's comments about duty of care seem to echo the reasons previously given by the IGADF for opposing restricted reporting. It may well be that the IGADF has been re-running those arguments with the CDF. For the reasons given above it is my view that there are clear and overwhelming answers to the arguments raised by the IGADF.
 - ◇ From the point of view of ‘duty of care’ – the confidentiality guarantee in restricted reporting should mean that there will be *more* reporting and therefore *more* information to alert Command that there is a risk situation than is the case under the current reporting regime where less than 20% of sexual assaults are reported at all.
 - ◇ Restricted reporting should be much better for the victims than the current regime which gives no support to those 80% plus of victims who do not report.
 - ◇ Restricted reporting should be much better for ADF risk management and for duty of care because restricted reporting will usually give Command some information about current risk. Surely some information is better than zero information which is what Command gets under the current regime when there is usually no reporting.
 - ◇ Restricted reporting should lead to more *unrestricted* reporting because it allows victims to report initially and get timely support on a restricted basis and later make the decision about whether they are willing to lift the

restriction and provide evidence in criminal or disciplinary action against the perpetrator.

101. It may be that the CDF has heard the IGADF but has not heard those answers.
102. Establishing a reporting culture is fundamental to the welfare of the ADF and its people. Restricted reporting is a tangible and fundamental step in creating that culture.
103. I recommend that the CDF discuss the realities of the current reporting regime and the rationale for restricted reporting with Angela Ballard.
104. I recommend that the ADF implement the Government's 26 November decision to bring in restricted reporting with confidentiality and to do so 'as a matter of urgency' as was recommended in Broderick Phase 2.

'ZERO TOLERANCE', CONSULTATION AND MIXED SIGNALS

105. A few years ago I attended a 3 week course for Senior Leaders in Government at the Kennedy School of Government at Harvard University. The program used a case study method.
106. One case study which left a strong impression on me and which carries a strong message for this context related to a newly appointed CEO to an aluminium smelting company.
107. The new CEO announced shortly after his arrival that he was going to focus, and he wanted all of his executives to focus, on workplace safety. Once this message was conveyed to the general workforce and was confirmed by specific actions to improve safety, the workforce responded very strongly and positively. The fact that the leaders of the business had made a commitment to workplace safety and carried that commitment through with actions convinced workers that management valued them and their safety.
108. Members of the workplace reported incidents and matters of concern and offered suggestions for improvements in workplace safety. The rate of workplace injuries and deaths dropped off dramatically.
109. Workers engaged positively with management across a range of issues.
110. Other aspects of organisational health also improved. Because workplace safety issues were closely connected with production methods, consideration of workplace safety issues led to close examination of, and improvements in, production process. Both workplace safety and production processes benefited from the input of workers from the factory floor.
111. And because management sought out and respected the views of workers on these issues, workers were more committed to helping the company succeed.

112. Because the workforce had increased trust and respect for management, their representatives approached conflict resolution more constructively, absenteeism reduced and workers were generally willing to think and work harder to help the company succeed.
113. After some months of the focus on workplace safety and a dramatic reduction in the rate of workplace injuries and deaths, a senior executive suggested to the CEO that workplace safety was now in good order and they should think about focussing on some other aspect of the company's business. The CEO took the executive to the floor of the smelting operation and assembled the workers.
114. The CEO announced to the workers that the executive was satisfied with the rate of workplace injury and death. The CEO then turned to the executive and invited him to identify the workers there that he would be happy to have killed or injured at work that year. The executive declined the invitation.
115. Instead of winding back its focus on workplace safety, the company emphatically confirmed its commitment to achieving zero rate of workplace injury and death and continued to drive that incidence down. The company grew from being a small company to being a very large and very profitable company – with a very low rate of workplace accidents.
116. So what are the lessons from this story for reducing sexual and other abuse in the ADF?
117. The first lesson relates to the importance of having both:
- ◇ a readiness on behalf of those at the top of the organisation; and
 - ◇ processes for those at the top of the organisation
- to hear the perspectives of people who know what goes on in the lower levels of the organisation.
118. There is no reason to think that all knowledge and all wisdom on issues of sexual and other abuse in the ADF resides with the (mostly) men at the top of the chain of command.
119. Indeed, it is to be expected that those towards the top of the chain of command will have had little direct practical experience with these issues.
120. The ADF has been engaging with the Sex Discrimination Commissioner and her team on these issues. No doubt that perspective – which is informed by Ms Broderick's face to face meetings with many individuals in the ADF – is making a very valuable contribution.
121. However, as far as I can tell, although Broderick Phase 2 involved extensive consultation with women in the ADF, there has not been consultation with women who have left the ADF. And as far as I can tell the Broderick review –

which is focused on women in the ADF – would not have heard from male victims of sexual and other abuse in the ADF.

122. I recommend that the ADF should seek the views of men and the views of personnel who have left the ADF.
123. I also recommend that the ADF should seek the views and perspectives of individuals who have been abusers in the ADF.
124. Any process of listening to past perpetrators of abuse would need to deal with issues of immunity from prosecution and/or disciplinary process. However, there may be individuals who regret their past conduct – perhaps when young or influenced by alcohol - and who are willing to contribute to the welfare of the ADF by explaining why they engaged in this conduct and how they went about it.
125. The Grey Report commented that although there had been widespread abusive conduct by male cadets at ADFA this did not mean that the young Australians who were had engaged in that conduct were ‘bad apples’ – rather the culture and systems at ADFA had pressured people to engage in that conduct. The ‘barrel’ was rotten.
126. I recommend that Defence set up continuing processes to hear, and take into account the perspectives of men and women - including people who have left ADF and including past perpetrators - on issues of sexual and other abuse in the ADF.
127. I also recommend that the ADF consult with people who work with the victims of abuse in Defence to gain an understanding of what kind of abuse occurs, how abuse occurs and why people do not report and the impacts of abuse on victims.
128. One individual who would be able to contribute to Defence’s understanding of the cultural issues which discourage reporting and the possible solutions informed by her work with victims of sexual assault in the ADF is CPO Angela Ballard.
129. Counsellors working within Defence and counsellors working outside of Defence would be able to provide informed insights on the kinds of impacts that sexual and other abuse has on members and former members of the ADF and on why members of the ADF do not report. They could provide those insights without compromising their confidentiality obligations to individuals.
130. Rape Crisis Centres near major Defence establishments would also be able to provide insights because of their involvement in providing their support for victims who chose to go to those centres for counselling rather than to report through Defence systems.
131. DVA should have information from claims based on abuse to assist Defence to understand patterns of abuse and the effects of abuse. In Volume 1 and the

Supplement to Volume 1 of our Report we drew attention to the potential for gathering and sharing information between DVA and Defence. The Minister has directed the Secretary and the DART to liaise on these issues.

132. Society and the ADF are changing rapidly. ADF personnel change. Given that the problems of abuse in the ADF involve human conduct, it will not suffice for Defence to make one concerted effort to gather and take into account information from those sources and regard the job as done.
133. I recommend that processes for listening to victims and their support agencies should be built into Defence processes long term so that the ADF can continue to engage with the victims and perpetrators and can continue to bring those perspectives into Defence's thinking and decision-making.
134. I recommend that the processes for listening also be subject to regular review so that the processes can adapt to changing circumstances.
135. The second main lesson from the aluminium plant example goes to the need for ADF leadership to commit to pursuing zero incidence of abuse in the ADF and not to undermine that commitment with any suggestion that there is the level of abuse in the ADF is acceptable.
136. Leaders of the ADF have frequently declared that the ADF has zero tolerance for sexual abuse in the ADF. However, zero tolerance only has meaning for abuse which is reported or otherwise identified by the ADF. Furthermore declarations of zero tolerance put all the emphasis on dealing with perpetrators and do not acknowledge the needs of victims.
137. Much of the *Pathway to Change* strategy is – appropriately – focussed on preventing abuse. A commitment to pursuing zero *incidence* of abuse – whether reported or not - may be more important to focus thinking for the *Pathway to Change* strategy than declarations of zero tolerance.
138. As the Harvard case study on management commitment to workplace safety above demonstrates powerfully, the ADF leaders' declarations of zero tolerance for sexual abuse will be undermined by any words or actions of ADF leaders which suggest that the rate of sexual assault in the ADF is 'Ok', 'reasonable', 'acceptable' or similar.
139. Consider the messages which are wrapped up in this exchange between Senator Fawcett (a former Army officer) and the CDF before the Senate FADT Committee on 14 March 2013 (emphasis added):

Senator FAWCETT: I take you to recommendation 38 from that [IGADF] review. It says that the continual negative reporting of complaints management without evidence of appropriate rejoinder or rebuttal can be damaging to the morale of ADF personnel—and, I would argue, damaging to the reputation of Defence and damaging to the confidence of parents to allow their children to enlist in the ADF. Do you feel as though Defence currently has adequate avenues to put forth the balancing case and the perspective that, in the vast majority of areas, the ADF is better than comparable organisations; or is there further work

that the government needs to do to provide those avenues for Defence to get that message out?

Gen. Hurley: Our avenues are limited. We need to be vocal and speak about the organisation but speak the truth and draw on every speaking opportunity, for example, we have to present our view of the ADF, its journey. On the whole though when we appear in front of the media we do not get a positive outcome, regardless of the message. I only need to go to the conference I held on gender in Defence and security over the last two days, when I think there was a great story to be told; but the only report was a quote from me saying we have not increased the number of women in 20 years. That is the focus, so it is very hard for us to push through that. We might need to create the opportunities ourselves to discuss the issues, but it is not a story that the media wants to pick up on.

Senator FAWCETT: In terms of facts and figures to underpin that positive story, I am aware that at one of the estimates hearings you indicated Defence was looking to get comparative benchmarks from other organisations. Do you have an update at all as to where that work is at?

Gen. Hurley: Yes. We approached the Group of Eight universities to ask them if they would undertake the same sexual harassment surveys and so forth that we put ADFA through and none of them would touch it. So I cannot give you some statistics to compare us at the moment.

Senator FAWCETT: Have you done any research on their statistics or student union statistics that are available?

Gen. Hurley: No, I have not, but I am very confident on where I stand in relation to this.

140. There are echoes in this exchange of a newspaper report of an informal interview with the CDF which appeared in weekend newspaper last year. The aspects of that interview which particularly struck me were statements from the CDF to the effect that bad things happen in University environments. He referred to stories which his children brought back from University about what kinds of things went on there.
141. With respect, I have the following concerns about the CDF's public statements suggesting that the levels of abuse in the ADF are 'better' than they are in other environments.
142. First – Universities and most workplaces are not directly comparable with ADFA or the ADF generally:
 - ◇ Throughout their careers fellow ADF members must be able to trust one another with their lives. If one member of the ADF abuses another member of the ADF that undermines the trust which they must have throughout their careers. There is no similar relationship in general University or most other workplace communities.

- ◇ The ADFA is a tight and close community. Apart from the direct damage caused by abuse, the impact of the abuse on a victim at ADFA is also likely to be compounded by:
 - the feeling of betrayal because the abuse was committed by someone who is part of the ADFA ‘family’;
 - frequent contact on the ADFA campus with the perpetrator and with people who know or suspect what happened to the victim.
- ◇ Similar factors apply to each of the Services are close communities with networks of contacts and communication. Apart from the direct damage caused by abuse, the impact of the abuse on a victim in one of the Services is also likely to be compounded by:
 - the feeling of betrayal because the abuse was committed by someone who is part of the Service ‘family’;
 - contact within the Service with the perpetrator and/or with people who know or suspect what happened to the victim.
- 143. Surely being as ‘good’ or as bad as the general community is not good enough for the ADF which strives for exemplary standards?
- 144. Second - The *Pathway to Change* strategy emphasises that if the ADF is to change, there has to be acceptance that there is a problem.
- 145. The recognition in the *Pathway to Change* strategy that there is a problem is - with respect - undermined by General Hurley’s exchange with Senator Fawcett.
- 146. General Hurley accepted the proposition that ‘in the vast majority of areas, the ADF is better than comparable organisations’ as being a ‘truth’ which he will speak at every possible opportunity. I am not aware of any evidence that General Hurley has for this ‘truth’. General Hurley must know that there is under-reporting of sexual and other abuse in the ADF:
 - ◇ See Volume 1 of our Report – especially Chapter 6 and the Appendices dealing with Defence surveys.
 - ◇ Previous reports have found that there is under-reporting.
 - ◇ The *Pathway to Change* strategy document itself acknowledged that there is under-reporting.
- 147. General Hurley cannot know what is the level of sexual or other abuse in the ADF. See Chapter 6 and related Appendices dealing with Defence surveys.
- 148. He certainly did not know the level of sexual abuse in Universities because he told Senator Fawcett that he did not have that information. Nevertheless after

acknowledging that he did not have that information General Hurley immediately declared that he was 'confident of his position' (compared with Universities).

149. When I watched the television coverage of then Secretary Duncan Lewis speak at the launch of the *Pathway to Change* strategy last year I had no doubt that he understood and accepted that there was a major problem. More recently watching Lieutenant-General Morrison's public statements I had no doubt that he accepted that there was a major problem.
150. However, I am yet to be convinced by any of the CDF's public statements that he accepts that there is actually a major problem which needs to be addressed.
151. Third – by asserting that the ADF is good and better than comparable organisations, the zero tolerance message is weakened because:
 - ◇ The message that the ADF is 'better' implies that the ADF is 'good' in the area of the rate of sexual abuse. With respect, that is a bad message because it implies that the rate of sexual abuse in the ADF is good.
 - ◇ The unwavering message should be that the only acceptable rate of sexual abuse in the ADF is zero.
152. Fourth – by asserting that the ADF is good and better than comparable organisations, General Hurley may discourage reporting by some victims because:
 - ◇ If the CDF makes public declarations that the rate of sexual abuse is 'better' than the rate of sexual abuse in other organisations, victims will know that if they do report they will be undermining the CDF's public message that things are good in the ADF; and
 - ◇ Victims may fear that if they do report they will not be believed because the CDF has declared that the ADF is 'good' on this issue.

Finally, I confirm that I would be happy to meet with the Secretary and CDF or the Advisory Committee looking at *Pathway to Change* implementation to discuss the matters covered in this letter or any other matters related to the systemic issues identified in Volumes 1 and the Supplement to Volume 1 of our Report.

Dr Gary A Rumble

9 July 2013

**SUBMISSION TO SENATE FOREIGN AFFAIRS, DEFENCE AND TRADE
REFERENCES COMMITTEE: INQUIRY RELATING TO ALLEGATIONS
OF SEXUAL AND OTHER ABUSE IN DEFENCE**

Dr Gary A Rumble

PART II

ANNEXURE 3



Australian Government

Department of Defence

Mr Dennis Richardson
Secretary

General David Hurley, AC, DSC
Chief of the Defence Force

SEC/OUT/2013/250
CDF/OUT/2013/1236

Dear Dr Rumble,

Thank you for your correspondence of 9 July 2013 in relation to the Review of allegations of sexual and other abuse in Defence and the Government's response. We have read your comments carefully and do appreciate your genuine interest. Many of your comments reflect our own concerns.

Your paper refers to the *Pathway to Change: Evolving Defence Culture* strategy committing to taking action to develop a 'reporting culture' and states that 'shifting the deeply entrenched cultural factors which have discouraged reporting for decades will not happen quickly and will require ongoing attention'. We agree with that observation and have sought to structure our strategy accordingly.

Increase in reports of abuse – support for persons reporting abuse

Pathway to Change marks an important step in Defence's evolution: the beginning of a 5-year program of integrated and far-reaching efforts to tackle cultural challenges at their roots. This includes ensuring we have a culture whereby any member of the Australian Defence Force (ADF) or Defence's civilian workforce feels that they can report allegations of abuse and that the matter will be dealt with fairly, swiftly and without prejudice.

Together with the then Minister for Defence, Mr Stephen Smith, and the Sex Discrimination Commissioner, Ms Elizabeth Broderick, we were very pleased to launch the Sexual Misconduct Prevention and Response Office (SeMPRO) on 23 July 2013. SeMPRO represents a fundamental change in the way Defence approaches and manages incidents of sexual misconduct in the ADF.

As a victim-orientated service, SeMPRO is available to provide access to counselling, advice and support to victims from the outset, and to guide commanders and managers in dealing with reports of sexual misconduct in their workplaces in a sensitive and timely manner. It shifts the immediate focus from pursuing perpetrators or the actual investigation of the incident towards supporting the immediate safety and well being of the victim, including their care and recovery. Unlike our previous approach, the victim, not the system,

will now decide if and when to report a matter for investigation. Over time, we are optimistic that with the right support, people will build trust and confidence to take that action. As you note, this will require ongoing leadership and commitment.

Why the ADF should seek to identify abuse which has not been reported

We agree that a significant number of incidents go unreported, which is one of the reasons SeMPRO was established.

We want our people who may have suffered abuse to feel empowered and confident that they are in control. By implementing better support structures such as SeMPRO, and allowing the victim to determine if and when to report a matter for investigation, we are acknowledging that sexual misconduct must be managed sensitively and take into account the wishes and welfare of victims.

How can the ADF identify abuse which has not been reported

We note your suggestions on action Defence might take to identify unreported abuse.

Following the announcement of the Government's response to the *Review of allegations of sexual and other abuse in Defence* in November 2012, a further six months were available for individuals to register new allegations of abuse with the Taskforce.

During this time, Defence took steps for ensuring that our personnel were aware of the work of the Taskforce and had the opportunity to register new allegations of abuse, or for those individuals who had already raised a matter with the review you led, to consent for its re-assessment by the Taskforce. As the Secretary and Chief of the Defence Force, we emphasised to our people that making a complaint to the Taskforce would not in any way be a barrier to progressing an individual's career in Defence.

We understand that the Taskforce also took appropriate action to promote the widest coverage of its work so that those who had not yet made a complaint had a further opportunity to do so. The most recent interim report of the Taskforce, tabled in the Parliament in June this year, included that 1,535 new complaints had been registered since November 2012, bringing the total number of complaints to around 2,410. This included consent to re-assess 875 complaints from your review.

The SeMPRO is now the single point of contact in Defence for the collection, analysis and reporting of sexual misconduct prevalence data for the ADF. As the central data point and through encouraging more people to report sexual offences or misconduct, SeMPRO will be in a position to analyse prevalence and identify specific trends or risk factors that will enable us to implement targeted prevention and education strategies. Its services are available to both current and former serving Defence personnel.

Defence has also been in consultation with the Taskforce about gaining access to a depersonalised statistical database of reports of abuse in Defence over time, which have been collected through its work. This will further strengthen SeMPRO's efforts in developing targeted sexual misconduct education and prevention strategies for Defence.

Defence is currently undertaking a *Re-Thinking Systems Review* which considers the functions of inquiry, investigation and review in terms of achieving the *Pathway to Change* objectives. In particular, the *Pathway to Change* strategy committed Defence to developing a reporting culture, providing mechanisms for the timely resolution of matters, and ensuring

accountability of decision makers. The Review is focused on consideration of systems to support decision makers in responding to incidents, including simplifying policy and processes on recording, reporting and making decisions to respond to incidents, including allegations of abuse, and their consequences.

The *Re-Thinking Systems Review* has separately commissioned an ICT feasibility study into a whole of Defence recording, reporting and case management system to make it easier for commanders and line managers to record and report events, and seek assistance for ongoing management and resolution.

The ICT feasibility study will also assess the ability of an enterprise-wide system to support data analysis in order to identify trends that require further examination.

While the *Re-Thinking Systems Review* is focused on support to decision-makers, that support will contribute towards building a culture of reporting in Defence and a system that can deal with reports once made.

We were pleased to hear that Ms Broderick's recent audit report on the *Review into the Treatment of Women at the Australian Defence Force Academy* had found that the number of complaints made in 2012 and 2013 has increased, suggesting a safer reporting environment. Ms Broderick's report also noted that complaint and incident registers in Defence have improved since her initial review, with greater information being collected in a more organised and systematic way.

In relation to your recommendation that Defence seek advice from experts in dealing with victims of abuse, we can assure you that the SeMPRO team, as well as other relevant parts of the organisation such as the ADF Investigative Service, have been doing just that.

What can the ADF do with information which identified that unreported abuse may have occurred

Your paper refers to using information collected on unreported abuse to identify and refer indicators of serial and other perpetrators to the appropriate authorities for investigation or to offer support to victims, managers and commanders about those matters.

In relation to this point, we again reiterate our position that the wishes and welfare of victims must be considered very seriously in deciding on the appropriate course of action.

Restricted reporting/disclosures

We note that Volume One of the *Report of the Review of allegations of sexual and other abuse in Defence* as well as Ms Broderick's review recommended that consideration be given to establishing a system for restricted reporting for sexual harassment, sex discrimination and sexual abuse in Defence, which Defence interprets as coming under the banner of sexual misconduct more broadly.

Defence has introduced a system for 'restricted disclosure' in order to provide a confidential option for victims of sexual misconduct in the ADF where circumstances allow. An individual can disclose an incident directly to SeMPRO through this mechanism without necessarily triggering an investigation. While in some circumstances a restricted disclosure may not be appropriate, such as where a victim is believed to be a minor or there is a serious and imminent threat to the life and safety of others, SeMPRO will continue to work with the victim to provide appropriate guidance and advice.

Restricted disclosures will encourage people affected by sexual misconduct, who may not otherwise report the incident, to report misconduct in a safe environment and gain access to support services, while considering whether to report the matter to the ADF Investigative Service or civilian police.

‘Zero tolerance’, consultation and mixed signals

You have recommended that Defence build in processes for listening to victims so that those perspectives may be brought into Defence’s thinking and decision-making.

As the Chief of the Defence Force and Secretary, we have recently provided our personal commitment to the Chair of the Taskforce, the Hon Len Roberts-Smith RFD QC to participate in the Restorative Engagement Program. Indeed, that program will engage the leadership across the ADF and Defence civilians.

This important program will bring together a complainant with a senior representative of Defence to have their personal account of abuse heard, responded to and acknowledged by our people. It will involve senior representatives from both the ADF and Defence’s civilian workforce to hear first-hand a victim’s personal account of abuse and, for some cases, the impact of any mismanagement of the complaint on the individual.

This will be a very powerful program for further supporting cultural change in Defence.

We disagree with your inference that two public statements by the Chief of the Defence Force that refer to statistics of unacceptable behaviour in the ADF and make a comparison with civilian universities are somehow ‘weakening’ the message about cultural change or discouraging the reporting of abuse. Nor can we agree with your statement that the CDF does not accept that a major problem exists that needs to be addressed. Such a statement ignores the many public statements and addresses the CDF has given on the need for cultural change.

In terms of benchmarking the ADF with civilian universities, you might wish to refer to Ms Broderick’s *Review into the Treatment of Women at the Australian Defence Force Academy* that compared the rate of incidents at ADFA with civilian universities. There has been no intended inference through this work that the current rate of sexual misconduct in Defence is somehow acceptable. Action taken over the last eighteen months to implement *Pathway to Change* as well as other public statements made by the Chief of the Defence Force would certainly indicate otherwise.

Once again we thank you for your letter and for your ongoing support to cultural change in Defence.

Yours sincerely

Dennis Richardson
Secretary

D.J. HURLEY, AC, DSC
General
Chief of the Defence Force

**SUBMISSION TO SENATE FOREIGN AFFAIRS, DEFENCE AND TRADE
REFERENCES COMMITTEE: INQUIRY RELATING TO ALLEGATIONS
OF SEXUAL AND OTHER ABUSE IN DEFENCE**

Dr Gary A Rumble

PART II

ANNEXURE 4

14 December 2013

Mr Dennis Richardson AO
Secretary
Department of Defence
Russell Offices
RUSSELL ACT 2600

General David Hurley AC, DSC
Chief of the Defence Force
Russell Offices
RUSSELL ACT 2600

c Defence Abuse Response Taskforce
Robert Garran Offices
BARTON ACT

Dear Secretary Richardson and General Hurley

**IDENTIFYING UNREPORTED ABUSE AND CREATING A REPORTING
CULTURE IN THE ADF: IMPLICATIONS FOR IMPLEMENTATION OF THE
PATHWAY TO CHANGE STRATEGY: FURTHER COMMENTS**

It is now some time since I received your letter (undated but received in September) replying to the paper which I provided under cover of my letter of 9 July 2013.

My 9 July 2013 paper included discussion of:

- Suggestions for identifying and responding to possible unreported abuse
- Restricted reporting
- ‘Zero tolerance’, consultation and mixed signals

At the start of your September letter you agreed with my observation that:

... shifting the deeply entrenched cultural factors which have discouraged reporting for decades will not happen quickly and will require ongoing attention.

However, the rest of your September reply was discouraging.

Your September reply does not say so directly but I infer that you have not accepted a single one of the suggestions and recommendations which I set out in my 9 July paper for identifying and responding to possible unreported abuse.

You said that ‘We have read [my] comments carefully ...’ and that you had ‘noted [my] suggestions on action Defence might take to identify unreported abuse’. However, your reply seemed to proceed on the basis of an incorrect characterisation of what I had suggested.

Given the importance of the issues I am writing one more time to correct your September letter’s incorrect characterisation of the suggestions which I made for identifying and responding to possible unreported abuse and to ask you – with the benefit of that clarification – to consider those suggestions again.

I also make some comments on other aspects of your response to me.

IDENTIFYING AND RESPONDING TO POSSIBLE UNREPORTED ABUSE

1. My 9 July paper included reference to material which indicates that:
 - More than 80% of sexual assaults in the ADF are not reported.
 - It is likely that a similar percentage of other kinds of abuse in the ADF are not reported.
2. I recommended that the ADF seek advice from experts in dealing with victims of sexual and other abuse to develop an understanding of the kinds of shifts in conduct and personality which signal that sexual or other abuse might have been suffered by an individual or a group.
3. I recommended that the ADF with assistance from experts in dealing with victims of abuse:
 - develop IT and HR systems to flag indicators that abuse may have occurred; and
 - build, resource and maintain a team of appropriate experts to ‘investigate’ such indicators of possible abuse *promptly*.
4. I noted that these may well be appropriate tasks for the new Sexual Misconduct Prevention and Response Office (**SEMPRO**). (SeMPRO had not been launched at the time that I sent you my 9 July paper and I was not aware of the precise role which SeMPRO would be given.)
5. The SeMPRO website has contrasted ‘Restricted (confidential) Disclosure’ with ‘Unrestricted Reports’.
6. The SeMPRO website explains that (emphasis added):

‘An Unrestricted Report allows ADFIS (Australian Defence Investigative Service) or State/Territory police to carry out detailed investigations into the allegation(s). Your wishes may influence the extent of investigative or prosecution action taken.’

7. The SeMPRO website seems to use the term ‘investigation’ solely to refer to investigation undertaken by ADFIS or State/Territory police to gather evidence and to assess allegations for possible prosecution.
8. In my 9 July letter I used the term ‘investigation’ in a broad sense to include actions to ‘examine (a matter) systematically or in detail’ (see OED). I contemplated that such systemic consideration could include analysis by SeMPRO.
9. Your September letter seems to have characterised my suggestions as being a proposal that suspected incidents of abuse would be referred to Police for investigation regardless of the wishes of the suspected victim. It may be that my use of the term ‘investigation’ in a broader sense caused you some confusion when you were considering my 9 July paper references to possible ‘investigation’ of indicators of possible abuse.
10. I had noted in my 9 July paper that one of the purposes of these investigations could be:
 - to identify and refer indicators of serial and other perpetrators of abuse to appropriate authorities for possible further investigation for criminal prosecution or other action;
11. However, in the 9 July paper I also noted that even if it is not possible to gather enough information to take action against a possible perpetrator and even if a victim does not wish to join in any enforcement process at least the ADF will have some information to enable it to:
 - identify individuals – whether still in the ADF or not - who may have been victims of abuse to offer them assistance;
 - gather information about risk situations and/or risk individuals so that Command will be better informed and better able to remove or manage risk factors.
 - provide information to support allegations of abuse by victims seeking to establish entitlements for DVA benefits.
12. I also noted that restricted reporting could be very important in combination with this kind of pro-active search for victims who have not reported – especially when the ADF is seeking to gather information from persons who have left the ADF. For example, as I discussed at paragraphs 70-73:
 70. Accordingly, it is clearly not sufficient to rely on the absence of reference to abuse in an exit interview to conclude that abuse was not a factor in an individual’s departure from the ADF. Follow up interviews over time with former ADF personnel may be needed before any information is provided.
 71. Obviously people who have previously decided not to report abuse will need to be approached with subtlety and sensitivity by persons expert in this kind of investigation if they are to be persuaded to provide information

about what happened to them.

72. Possible lines of investigation could include:

- ◇ interviewing colleagues of individuals whose conduct changed;
- ◇ questioning NCOs who were in close contact with the personnel and who may have better knowledge of what was going on amongst lower ranks under training than would the Commanding Officer. (Of course, it would be crucial to be very careful about such an approach because an NCO who is in close contact with junior ADF personnel undergoing training could actually be a perpetrator of abuse.)
- ◇ making a series of approaches over time to the individual who might have been abused to build their confidence and to increase the chances of giving them someone to speak to when they were ready to talk.

73. Accordingly, I recommend that the ADF with assistance from experts in dealing with victims of abuse:

- ◇ develop IT and HR systems to flag indicators that abuse may have occurred; and
- ◇ build, resource and maintain a team of appropriate experts to investigate such indicators of possible abuse.

74. These may well be appropriate tasks for the new Sexual Misconduct Prevention and Response Office (**SEMPRO**). ...

13. Your September letter included the following:

Unlike our previous approach' the victim, not the system will now decide if and when to report a matter for investigation. Over time, we are optimistic that with the right support, people will build trust and confidence to take that action. As you note, this will require ongoing leadership and commitment.

...

We want our people who may have suffered abuse to feel empowered and confident that they are in control. By implementing better support structures such as SeMPRO, and allowing the victim to determine if and when to report a matter for investigation, we are acknowledging that sexual misconduct must be managed sensitively and take into account the wishes and welfare of victims.

14. Of course, I agree that:

- sexual misconduct must be managed sensitively;
- management of sexual misconduct must take into account the wishes and welfare of victims;
- it is important that people who may have suffered abuse should feel empowered and confident that they are in control of the process.

15. However, if you have decided that Defence should not take any action to seek to identify where unreported abuse is affecting, or may have affected, ADF personnel and that Defence will not give consideration to what could be done about indicators of unreported abuse, because of those principles then you are misapplying those principles.
16. Those principles do not preclude SeMPRO or other relevant areas within Defence 'investigating' - in a broad sense of considering - the possibility that an incident or incidents of unreported abuse may have occurred and what action would be appropriate consistently with the 'sensitive management/victim in control' principles set out above.
17. There are many things that Defence could do to identify areas of the ADF where unreported abuse may have occurred and/or may be occurring and many things that Defence could do to manage the possibility that unreported abuse has occurred or is occurring without taking away from suspected victims control of the decision on whether they want to participate in an ADFIS or a police investigation of abuse which they have suffered.
18. For example, if SeMPRO's analysis shows that there are indicators that there may have been unreported incidents of abuse at a particular establishment, base or ship, then SeMPRO could consider appropriate actions which do not compel any suspected victim to be named as a victim let alone compel a suspected victim to participate in any Police or ADFIS investigation:
 - SeMPRO could work with Command to identify and mitigate abuse risks at that particular establishment, base or ship;
 - SeMPRO could make presentations at that particular establishment, base or ship a campaign to raise awareness of SeMPRO (including the availability of counselling and support and the availability of restricted disclosure);
 - SeMPRO could liaise with Personnel to design anonymous survey material to go to suspected victims (and others) who have left the ADF seeking information about their experiences in the ADF and their reasons for leaving and providing them with information about support available including information about restricted disclosure through SeMPRO. (See also paragraphs 68-73 of my 9 July paper.)
19. I repeat the points made in my 9 July paper:

The ADF cannot deal with abuse which it is not aware of. As I explained in the 9 July paper, it is very likely that more than 80% of incidents of sexual abuse in the ADF are not reported. It is likely that the rate of reporting of non-sexual abuse is also low.

Declarations that the ADF has zero tolerance of abuse carry little force if zero tolerance only applies to the low percentage incidents of abuse which are reported.

20. The establishment of SeMPRO was an important step. However, establishing SeMPRO and making available your current version of restricted (confidential) disclosure as explained on the SeMPRO website will clearly not be sufficient alone to solve these matters.
21. If your central strategy to increase significantly the rate of reporting – restricted or unrestricted - is to wait for victims to choose to contact SeMPRO, then you are likely to be in for a long wait before the rate of reporting – even on a restricted basis – starts to get to levels which will enable the majority of victims to be assisted let alone to bring to the attention of command information about risk situations which call for response.
22. Furthermore, SeMPRO is limited to dealing with sexual misconduct and will not directly do anything to improve the rate of reporting of non-sexual abuse.
23. In any case as noted above you have agreed with my observation that:
 - ... shifting the deeply entrenched cultural factors which have discouraged reporting for decades will not happen quickly and will require ongoing attention.
24. It must follow that – even with the impact of the work of the DART and SeMPRO and the other projects you refer to - the rate of reporting of abuse is not likely to shift above 20% for a long time.
25. Accordingly, I ask you to note the clarifications of my use of the word ‘investigation’ and to consider again the suggestions and recommendations which I made in my 9 July paper for identifying and dealing with the 80% or more of abuse which is unreported.

DEFENCE ABUSE RESPONSE TASKFORCE (DART)

26. In your September letter, under the heading – *How can the ADF identify abuse which has not been reported* - you noted that after the Government’s response to the *Report of the Review of allegations of sexual and other abuse in Defence* in November 2012:
 - a further six months were available for individuals to register new allegations of abuse with the Taskforce:
 - Defence took steps to ensure your personnel were aware of the work of the Taskforce and had an opportunity to register new allegations of abuse:
 - Defence took steps to ensure that your personnel who had raised matters with the Review which I led had opportunity to consent for re-assessment of the matter by the Taskforce:

- As Secretary and CDF you emphasised to your people that making a complaint to the Taskforce would not in any way be a barrier to progressing an individual's career in Defence.
27. You also made comments that:
- It was your understanding '... the Taskforce also took appropriate action to promote the widest coverage of its work' so that those who had not yet made a complaint had further opportunity to do so'.
 - 'The most recent interim report of the Taskforce ... included 1,535 new complaints bringing the total to around 2,410. This included consent to re-assess 875 complaints from your review'
28. Obviously some of the reports which are before the DART will not previously have been reported.
29. However – lest there be any assumption that the DART has now gathered in most of previously unreported abuse – it seems to me to be clear beyond argument that the 2,410 individuals whose complaints are before the DART are likely to represent only a small proportion of individuals who have been affected by abuse in the ADF.
30. From the previous reports which we surveyed and summarised in Volume 1 of our Report and from my consideration of around 1100 allegations from around 775 sources in the course of preparing Volume 2 of that Report it is apparent to me that patterns of abusive conduct in some ADF environments have been entrenched and/or have recurred over many decades.
31. The DART commented in its Third Interim Report (at page 22):
- It remains the case, as noted in the Second Interim Report, that:
- the instances of serious abuse at HMAS Leeuwin and ADFA are more widespread and persistent than was reported in the 1971 Rapke Report and in the 1998 Grey Review respectively;
 - many of the particular issues which arose at HMAS Leeuwin and ADFA can also be seen at other ADF recruit schools and training institutions; ...
32. The numbers of 'complaints' which have reached the DART - around 2,410 at the time of your September letter – is a small number compared to the hundreds of thousands of individuals who have been in the ADF.
33. Second - In Volume 1 of the Report of the Review which I led we set out the basis for our view that 'the Review is inclined to the view that the allegations of sexual and other abuse which are before the Review represent a relatively small proportion of the incidents of sexual and other abuse which has occurred in the ADF in the past' (see page 107 and following).

34. For similar reasons, in my view there is little reason to be confident that the DART has received reports of all or even most incidents of past abuse.
35. First is it quite likely that many former members of the ADF who have been victims of abuse would not have been aware of the work of the DART.
- I do not know what is the basis for your statement that ‘the Taskforce took appropriate action to promote the widest coverage of its work so that those who had not yet made a complaint had a further opportunity to do so’.
 - As far as I am aware, Mr Roberts-Smith did not participate in television or radio interviews to publicise that the DART was calling for ‘complaints’. As far as I am aware the DART confined its publicity to reach former ADF members to press advertising.
 - The experience with the Review which I led was that from 6 weeks of DEFGRAMs notification within the ADF and nation wide newspaper advertising we received around 180 communications of allegations.
 - However, in the four days after the June 2011 Four Corners program relating to abuse in Defence which included a single reference to our Review, we received around 550 communications from a viewing audience of around 200,000.
 - The story which was told by many of the individuals who reached our Review, was that abuse which they had suffered as boys in the ADF decades earlier had caused PTSD and/or had contributed to alcohol and other substance abuse. Very often they were living in straitened circumstances and were socially isolated. The DART’s Interim Reports have confirmed this story of the long-term impacts of abuse on boys and other young people in training establishments.
 - It is likely that many individuals in such circumstances would have missed the DART’s newspaper advertisements.
 - In my view if Mr Roberts-Smith had appeared in current affairs program and radio interviews to publicise the work of the DART, the DART would have attracted many more contacts from former ADF personnel.
36. Second – even for those victims of abuse who were aware of the work of the DART – including current ADF members - there are a number of reasons to think that the DART would not have attracted all or most of them to contact the DART.
- I accept your assurance that ‘Defence took steps for ensuring that our personnel were aware of the work of the Taskforce and had the opportunity to register new allegations of abuse ...’.
 - However, the cultural factors which discourage the reporting of abuse are deeply entrenched. The mere fact that the DART was available to receive

complaints cannot be expected to have outweighed those factors for all or even most people who have suffered abuse in the ADF.

- I also accept your assurance that ‘As Secretary and CDF you emphasised to your people that making a complaint to the Taskforce would not in any way be a barrier to progressing an individual’s career in Defence’.
- However, it is clear from the numerous previous reports on abuse issues in the ADF and from the records which I saw in preparation of the Report of the Review which I led that the mere issuing of such orders from above will not suffice to protect individuals who make reports from being isolated and ostracised by others around them in the units in which they serve.
- As you acknowledged in your September letter - shifting the deeply entrenched cultural factors which have discouraged reporting for decades will not happen quickly and will require ongoing attention'.
- Some people who have suffered abuse in the ADF are distrustful of the ADF and its systems. The fact that DART is headed by Mr Roberts-Smith who has been closely involved with the ADF and who had the rank of Major-General may have discouraged some victims from approaching the DART.
- Obviously different individuals react to, and find ways of coping with, their experience of abuse in different ways. Some will arrive at a readiness to talk about their experiences at different times in their lives. The mere fact that the DART was open to receive complaints at a particular time may not have been sufficient encouragement for many individuals to approach the DART in that period.
- Some individuals who moved from being abused to being abusers may have felt that they did not deserve assistance.
- For many women and men who were the victims of abuse in the ADF, the outcomes which the DART was offering would not have been sufficient to cause them to make a ‘complaint’. For many individuals who had built their lives despite their experience of abuse and whose families may be unaware that the abuse had occurred, the possibility of a compensation payment or a reconciliation process may not have provided enough incentive to re-open the distressing experience of the abuse which they had suffered.
- The fact that the DART has been focussed on ‘complaints’ and outcomes for the complainant - rather than on gathering information about allegations - would have excluded reports from victims of abuse who might otherwise have been willing to tell the DART about their experience of abuse to inform and assist ADF risk management and decision-making.

37. Finally - The DART has closed its books and does not provide a framework for unreported abuse in the future. The suggestions which I made were for ongoing analysis and monitoring to assist in identifying possible unreported abuse to inform actions to mitigate the impacts of abuse and/or to prevent abuse.

SeMPRO

38. In your September letter, also under the heading – *How can the ADF identify abuse which has not been reported* - you say that

As the central data point and through encouraging more people to report sexual offences or misconduct, SeMPRO will be in a position to analyse prevalence and identify specific trends or risk factors.

39. This seems to contemplate analysis of reported sexual misconduct. I again commend consideration of the kinds of indicators that there may be or have been incidents of unreported abuse.
40. I had laid out in my 9 July paper some suggestions for doing targeted follow up with individuals who have left the ADF to see whether information can be gathered about why they left. I pointed out that exit interviews are not likely to elicit information about abuse if the individual has decided to leave the ADF rather than get involved in report processes.
41. I again recommend to you that you consider targeted and sensitively implemented follow up with former ADF personnel.
42. You make reference to Defence's consultation with the Defence Abuse Response Taskforce 'about gaining access to a depersonalised statistical database of reports of abuse in Defence over time, which have been collected through its work' and that 'this will further strengthen SeMPRO's efforts in developing targeted sexual misconduct education and prevention strategies for Defence'.
43. I have no doubt that the sample of abusive conduct which the DART has had before it will be of use in giving SeMPRO insights into sexual abuse in the ADF in the past.
44. However – for reasons I discuss above – it is likely that the sample of matters which the DART has had before it represents a very small proportion of abuse incidents in the ADF.
45. And of course, the matters which the DART has had before it were closed off. As society generally and the ADF environment change, there will be new risks.
46. Furthermore, your reference to the intention to provide SeMPRO with information from matters which have been before the DART highlights Defence's failure to look to the much deeper and wider range of information

which Defence and DVA are already sitting on which could be used – with appropriate caution and sensitivity for victims: -

- for risk management within the ADF;
 - for assessment of DVA benefits;
 - for identifying individuals who may be in need of assistance.
47. In October 2011 in Volume 1 of our Report we commented on how the ADF's emphasis on 'moving forward' seems to have been a factor contributing to an a failure by the ADF to apply risk management methodology to draw broader lessons from particular abuse incidents. See Foreword and Chapter 2. We also identified a set of issues about the adequacy of Defence's databases for gathering information and identifying abuse risks including tracking serial offenders and serial suspects. See Chapter 7 and Issues 7-10.
48. As we continued to work towards completion of our Report we were surprised to find that the ADF did not have copies of a number important reports relating to abuse which we had seen referred to in newspapers and in Hansard. This was particularly concerning given that the reports were often declared to be intended to prevent recurrence.
49. The Head Defence Legal informed us – '*We [Defence] do not have a single, unified repository for searching for, and retrieving Defence records on matters of interest*'. See Supplement to Volume 1 Chapter 7.
50. In the April 2012 Supplement to Volume 1 of Report we recommended that Defence and DVA liaise to consolidate and share – with redactions for confidentiality as necessary and with amendment – the information which already exists and which is gathered from time to time in reports, litigated claims, settled claims, Courts Martial, Boards of Inquiry and other internal inquiry processes relating to abuse in Defence and the information relating to abuse which is scattered through DVA claims and files.
51. See Supplement to Volume 1 pages Chapter 7 especially 62-72 and the Attachment 11 to the Volume 2 Explanatory Materials which are in Appendix 2 of the Supplement. See Issues S2-S11. I also refer you to my Submission and Supplementary Submission to the Senate FADT Committee in March of this year and to the evidence which I gave to that Committee.
52. As we commented (at Supplement page 66):
- It would seem to be fundamental to risk management to have ready access to this information so that the lessons from the past can be taken into account and so that history-including very recent history-does not repeat itself.
53. We also highlighted the need to amend the Defence Inquiry Regulations to make it easier for relevant managers and units to get access to information

from inquiries conducted under these Regulations. Supplement pages 65-66 and Issue S7.

54. In his 8 March 2013 letter to me which I provided to the Senate FADT Committee Minister Smith informed me that he had ‘asked that the Taskforce Chair, the Hon Len Roberts-Smith QC, consult with the Secretary of the Department of Defence and the Chief of the Defence Force on options for responding to those systemic issues’.
55. When I met with Mr Roberts-Smith in October he said that he had not initiated any such consultation and that he did not regard doing so as high priority for him.
56. I infer that neither of you have initiated that discussion either.
57. I have raised with Minister Johnston my concerns about the apparent failure of Mr Roberts-Smith to initiate this consultation.
58. There is no reason why you should not start considering and advancing these issues immediately.

ICT FEASIBILITY STUDY

59. In your September letter you also made reference to into an ICT feasibility study into ‘whole of Defence recording, reporting and case management system to make it easier for commanders and line managers to record and report events,...’.
60. Again that seems to be focused on reported abuse – representing less than 20% of abuse.
61. Again I ask you to consider data analysis which looks for indicators of possible unreported abuse so that sensitive and appropriate responses can be considered and so that risks can be identified and managed.

RESTRICTED REPORTING

62. Your September letter to me emphasised the importance of:
 - empowering victims and giving them control of the decision about if and when to report a matter for investigation; and
 - the establishment of SeMPRO which is supporting victims with restricted (confidential) disclosure.
63. I accept that the importance of the principle that the victim decides when and if an incident of sexual assault is reported for investigation for possible action

against the suspected perpetrator. Indeed, in our Report we pressed for restricted reporting to be considered for introduction.¹

64. There are two aspects of the version of restricted reporting which is stated on the SeMPRO website which do not match with the statements of principle in your September letter.
65. First - the SeMPRO website contains the statement that:

... when assessing whether a Restricted Disclosure can be accepted, SeMPRO will consider whether:

 - Unrestricted Reporting could reduce the risk of further sexual misconduct to you or another person; (emphasis added)
66. On the face of this statement it seems that SeMPRO must refuse to allow a victim to make a Restricted Disclosure if SeMPRO considers that Unrestricted Reporting could reduce the risk of further sexual misconduct by the perpetrator to the victim or another person.
67. It will almost always be open to SeMPRO to decide that if a plausible allegation of sexual misconduct is made, then sending the allegation to ADFIS and State/Territory police for investigation would 'reduce the risk of further sexual misconduct [by the alleged perpetrator] to [the victim] or another person'.
68. And if SeMPRO does form that view, then – on the face of the statement on the SeMPRO website – a victim's attempt to make a Restricted (Confidential) Disclosure must be rejected.
69. In the result, the victim would be denied access to counselling and other support unless the victim agrees to be sent to ADFIS and/or State/Territory police for investigation for possible prosecution.
70. I have spoken to Ms Susan Penn-Turrall Director, Critical Response and Recovery of SeMPRO and she has assured me that she would not apply this statement from the website restrictively.
71. Nevertheless, the statement has been sitting on the website and may well be discouraging individuals from reporting.
72. Second – the promise to victims that they are empowered to make the decision about if and when the incident is to be referred for criminal or DFDA investigation is a hollow promise unless any fresh forensic evidence which exists when the victims make their restricted (confidential) disclosure is collected and preserved.

¹ In our October 2011 Volume 1 Report and in the April 2012 Supplement to Volume 1 we discussed restricted reporting and identified its introduction as being an important matter for consideration in Phase 2. I discussed the importance of confidential reporting to SeMPRO in my 9 July paper (at paragraphs 79-104.).

73. At the launch of SeMPRO, General Hurley was emphatic that there would be processes for collection of evidence.
- ... But certainly we would be collecting evidence that will assist us further down the track if the victim come – survivor of that sexual misconduct wishes to take action. But it is done in an environment which is far more sensitive to the person than we might have done, you know, fronting up with a policeman, or a military policeman and going straight into an investigative process
74. However, there is no reference on the SeMPRO website to collection of evidence.
75. When I spoke to Ms Penn-Turrall she informed me that protocols for the gathering such evidence had not yet been put in place but were under consideration. She also informed me that SeMPRO had not been contacted by any person immediately after an incident so no issues of gathering and protecting forensic evidence had arisen.
76. Nevertheless, it is obvious that this practical issue could arise at any time. Indeed the more successful you are in convincing ADF personnel that SeMPRO is available to support victims of sexual assault with restricted (confidential) disclosure, then the more likely it is that these practical issues will arise with frequency.
77. I urge you to put processes for collecting and preserving evidence in place and to make clear on the SeMPRO site that those processes are available for individuals who want to use those processes when they make restricted (confidential) disclosure. Victims should not be obliged to submit to the gathering of evidence and the SeMPRO website should make clear that there is no such compulsion for victims who want to make a restricted disclosure.
78. Finally in relation to SeMPRO - your September letter to me included the statement that:

Its [SeMPRO's] services are available to both current and former serving Defence personnel.

79. None of the public statements and information about the role of SeMPRO which I have seen give any indication that SeMPRO is available to former Defence personnel. Indeed, the public statements about the role of SeMPRO which I have seen indicate that SeMPRO services are not available to former Defence personnel.

80. At the launch of SeMPRO on 23 July there was no reference to former ADF personnel:

Minister Smith stated:

This allows reporting of allegations of sexual misconduct or inappropriate sexual behaviour to be made by Defence Force personnel outside of the chain

of command. Restricted reporting, confidential reporting outside the chain of command.

And this is to ensure that every man and woman in the Australian Defence Force can feel confident, comfortable, and safe in making complaints of sexual misconduct or sexual mistreatment and most importantly, the role of SeMPRO is to be victim orientated

Sex Discrimination Commissioner Elizabeth Broderick stated;

SeMPRO is designed to remedy these issues. It will provide a safe supportive and, if necessary, a confidential resource for military personnel to disclose sexual misconduct and assault.

General Hurley

First, we know that a significant number of incidents go unreported which means there are significant number of people who have been subjected to sexual misconduct but who are not receiving any assistance. The health and welfare of our people is my highest priority and I want to establish a safe and confidential means for people who have experienced sexual misconduct to seek support and advice.

Second, I want our people to feel empowered and confident that they are in control.

81. On the SeMPRO site it is stated (emphases added):

SeMPRO is focused on providing services for ADF members who have been affected by sexual misconduct. Defence Defence APS employees who wish to access SeMPRO services may do so.

And -

If you are a member of the ADF and have been affected by sexual misconduct, you are encouraged to contact SeMPRO. Defence APS employees and external service providers are also able to access SeMPRO's services, should they wish to.

82. I cannot find any reference on the SeMPRO website to former ADF personnel having access to SeMPRO.

83. Ms Susan Penn-Turrall has informed me that if former ADF personnel contact SeMPRO, SeMPRO does attempt to assist them.

84. However, if former members of the ADF see the statements on the SeMPRO site which only refer to current ADF personnel, they will probably not contact SeMPRO.

85. I recommend that you amend the statements on the SeMPRO site and that you publicise outside the ADF the fact that SeMPRO is available to former ADF personnel as well as current ADF personnel.

‘ZERO TOLERANCE’, CONSULTATION AND MIXED SIGNALS

86. In my 9 July paper I recommended that the ADF leadership commit to pursuing zero incidence of abuse. You did not directly respond to that recommendation in your September letter.
87. I infer that you have not accepted this recommendation.
88. I have difficulty conceiving of any reason why you would not commit to pursuing zero incidence of abuse.
89. I ask you to consider again committing to pursuing zero incidence of abuse.
90. In the 9 July paper I also recommended that you establish continuing processes for those at the top of the ADF to hear the perspectives of people who know what goes on in the lower levels of the organisation.
91. As I noted - there is no reason to think that all knowledge and all wisdom on issues of sexual and other abuse in the ADF resides with the (mostly) men at the top of the chain of command.
92. Indeed, it is to be expected that those towards the top of the chain of command will have had little direct practical experience with these issues.
93. I recommended that Defence set up continuing processes to hear, and take into account the perspectives of men and women - including people who have left ADF and including past perpetrators - on issues of sexual and other abuse in the ADF.
94. I also recommended that the ADF consult with people who work with the victims of abuse in Defence to gain an understanding of what kind of abuse occurs, how abuse occurs and why people do not report and the impacts of abuse on victims.
95. I noted that Society and the ADF are changing rapidly. ADF personnel change. Given that the problems of abuse in the ADF involve human conduct, it will not suffice for Defence to make one concerted effort to gather and take into account information from those sources and regard the job as done.
96. I recommended that processes for listening to victims and their support agencies should be built into Defence processes long term so that the ADF can continue to engage with the victims and perpetrators and can continue to bring those perspectives into Defence’s thinking and decision-making.
97. I recommend that the processes for listening also be subject to regular review so that the processes can adapt to changing circumstances.

98. Your response was:

As the Chief of the Defence Force and Secretary, we have recently provided our personal commitment to the Chair of the Taskforce, the Hon Len Roberts-Smith RFD QC to participate in the Restorative Engagement Program. Indeed, that program will engage the leadership across the ADF and Defence civilians.

This important program will bring together a complainant with a senior representative of Defence to have their personal account of abuse heard, responded to and acknowledged by our people. It will involve senior representatives from both the ADF and Defence's civilian workforce to hear first-hand a victim's personal account of abuse and, for some cases, the impact of any mismanagement of the complaint on the individual.

This will be a very powerful program for further supporting cultural change in Defence.

99. I met with Mr Roberts-Smith in October. He explained to me that the intention is to involve officers down to Lieutenant-Colonel level in the Restorative Engagement Program.
100. I agree that this should be 'a very powerful program for further supporting cultural change in Defence'. However, in my view it is too optimistic to think that this will lock in cultural change for all time.
101. First - The emphasis on involving relatively senior officers in this process fails to recognise the role that senior NCOs play in providing role models and providing leadership in the ADF.
102. Furthermore, this does not answer the point which I made:
- Society and the ADF are changing rapidly. ADF personnel change. Given that the problems of abuse in the ADF involve human conduct, it will not suffice for Defence to make one concerted effort to gather and take into account information from those sources and regard the job as done.
103. The restorative engagement program also ignores the perspectives of past perpetrators. Bronwen Grey commented in 1998 that the male cadets who engaged in abusive conduct were not bad apples when they arrived – rather the barrel was bad – that is, the culture and environment led these young men into abusive conduct
104. Listening to past perpetrators could be of particular significance to assist the ADF leadership to understand why abuse has occurred and to inform strategies for reducing the prospect of recurrence of abuse.
105. I ask that you reconsider the suggestion of listening to perpetrators. Individuals who engaged in abusive conduct at training establishments when

they were immature young people and who now regret their conduct may be particularly useful for the ADF in assessing and managing risk in training establishments now and in the future.

106. Finally on the issue of messaging – You stated that ‘you do not agree that the CDF does not accept that a major problem exists that needs to be addressed. Such a statement ignores the many public statements and addresses the CDF has given on the need for cultural change.’
107. I did not state that the CDF does not accept that there is a major problem that needs to be addressed. I stated that ‘I am yet to be convinced by any of the CDF’s public statements that he accepts that there is actually a major problem that needs to be addressed.’
108. I should have said – ‘I am yet to be convinced by any of the CDF’s public statements *of which I am aware* that there is actually a major problem that needs to be addressed.’
109. In relation to benchmarking the ADF with civilian universities the points which I had made were: -

First – Universities and most workplaces are not directly comparable with ADFA or the ADF generally and that surely being as good or as bad as the general community is not good enough for the ADF which strives for exemplary standards.

Second – the Pathway to Change Strategy emphasises that if the ADF is to change, there has to be acceptance that there is a problem. For the CDF to inform a Senate Committee that he accepts that in the vast majority of areas, the ADF is better than comparable organisations’ as being a ‘truth’ which he will speak at every possible opportunity’ without any evidence for this assertion, weakens the message that there is acceptance that there is a problem.

Third – by asserting that the ADF is good and better than comparable organisations, the zero tolerance message is weakened because:

- ◇ The message that the ADF is ‘better’ implies that the ADF is ‘good’ in the area of the rate of sexual abuse. With respect, that is a bad message because it implies that the rate of sexual abuse in the ADF is good.
- ◇ The unwavering message should be that the only acceptable rate of sexual abuse in the ADF is zero.

110. The only comment you made on benchmarking in your September letter to me was to say – ‘you might wish to refer to ‘Ms Broderick’s *Review into the Treatment of Women at the Australian Defence Force Academy* that compared the rate of incidents at ADFA with civilian universities’ (emphasis added).

111. This is a perplexing response. I have gone back and had another look at the October 2011 Report from that Review. That Report did not compare the rate of incidents at ADFA with civilian universities.
112. On the contrary, that Report emphasised that there was no basis for meaningful comparison between ADFA and civilian universities and made recommendations for developing surveys which could provide a basis for comparison.
113. At page 34 of Ms Broderick's ADFA Report it was stated (emphasis added):

The Review notes that the National Union of Students (NUS) also administered a survey in late 2010/early 2011 concerning experiences of sexual harassment and assaults at Australian universities and residential colleges more generally. The NUS survey was conducted exclusively online through the NUS website, and 1549 survey responses were collected. Its results reported that 17% of its sample had experienced rape, and 67% of the sample had experienced unwanted sexual encounters. However, as the DSPPR notes, 'differences in methodology [between the Unacceptable Behaviour Survey and the NUS survey] mean any comparisons are of negligible value'.

114. Also relevant are the recommendations and discussion in that Report at pages 99-100: -

25 ADFA develop and annually administer a survey in order to more accurately measure the level of sexual harassment and sexual abuse among cadets. This survey should be followed up with a strategic organisational response by the Commandant, with feedback provided to cadets and staff to ensure that they have an investment in any reform arising from the survey results.

There is evidence that the challenges and problems surrounding unacceptable behaviour confronting ADFA also exist in other universities and residential colleges. This suggestion is supported by the 2011 National Union of Students Safe Universities Blueprint and researchers working in the sector.

ADFA should develop its Unacceptable Behaviour Survey in consultation with other Group of Eight Universities' Residential Colleges and Halls. This would demonstrate that ADFA is taking national leadership on the issue of unacceptable behaviour and using the challenges that it has faced in the recent past to achieve a wider, socially positive outcome.

26. To provide meaningful comparisons, ADFA develop this survey in consultation with other Group of Eight Universities' Residential Colleges and Halls, applicable to cadets as both military in training and university students. ADFA should consider including other single service training establishments in the development of this survey.

115. All of this seems to confirm the comment in my 9 July paper that there was no statistical information on which the CDF could agree with Senator Fawcett that in 'the vast majority of cases the ADF is better than comparable organisations'.

116. But more importantly as I noted above - Universities and most workplaces are not directly comparable with ADFA or the ADF generally. Unlike University students and most other workplaces, ADF members must be able to work closely together throughout their careers and to trust one another with their lives. If an ADF member has sexually assaulted another ADF member how can those two ADF members trust one another?
117. And surely being as good or as bad as the general community is not good enough for the ADF which strives for exemplary standards.

Yours sincerely

Dr Gary A Rumble

**SUBMISSION TO SENATE FOREIGN AFFAIRS, DEFENCE AND TRADE
REFERENCES COMMITTEE: INQUIRY RELATING TO ALLEGATIONS
OF SEXUAL AND OTHER ABUSE IN DEFENCE**

Dr Gary A Rumble

PART II

ANNEXURE 5



Australian Government
Department of Defence

Mr Dennis Richardson
Secretary

General David Hurley, AC, DSC
Chief of the Defence Force

SEC/OUT/2014/9
CDF/OUT/2014/40

Dear Dr Rumble

Thank you for your correspondence of 14 December in which you provided us your views on our recent letter to you.

We do appreciate your strong support for cultural change in Defence and your informed views on ways that you consider that we can continue to progress cultural change.

Yours sincerely

Dennis Richardson
Secretary

D.J. HURLEY, AC, DSC
General
Chief of the Defence Force