

Chapter 1

Introduction

Referral and conduct of inquiry

1.1 On 10 November 2016, the Senate referred an inquiry into the operation of the Australian Defence Force's (ADF's) resistance to interrogation (RTI) training to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 20 March 2017. On 20 March 2017 the Senate agreed to extend the reporting date to 27 March 2017. The terms of references for the inquiry include:

- (a) what training methods are used;
- (b) whether these training methods are in accordance with Australia's international obligations and Australian domestic laws;
- (c) the effectiveness of existing ADF supervisory control measures;
- (d) the ongoing mental health and wellbeing of personnel who have participated in RTI training; and
- (e) the matters raised in questions to Lieutenant General Campbell during the 2015-16 additional estimates.

1.2 The motion to refer the inquiry also provided that the Senate:

- (a) notes that Lieutenant General Campbell acknowledged, during estimates questioning, that video and other electronic records were made by the ADF of RTI training; and
- (b) calls on the Minister for Defence (Senator Payne) to provide the committee, under special circumstances which protect serving and former ADF personnel identities and operational security, with all recordings made by the ADF of RTI training by 28 December 2016 to assist the committee with the inquiry.

1.3 The committee advertised the inquiry on its website and wrote to individuals and organisations likely have an interest in the inquiry and invited them to make written submissions. The committee received 10 submissions to the inquiry which are listed at Appendix 1. A number of submissions which included details about the content, training methods and survival strategies exercised after RTI training were received in camera, but subsequently published with this information redacted.

Background

1.4 During the previous (44th) parliament, an inquiry with identical terms of reference was referred to the committee on 29 February 2016 for inquiry and report by 1 May 2016 (subsequently extended to 28 June 2016). The reference included a requirement for the Minister for Defence, the Hon Marise Payne, to provide the committee with all RTI training recordings. Public interest in Defence's RTI training activities followed media reporting in February 2016 of SAS Trooper Evan Donaldson's long-running dispute with Defence and DVA arising from the RTI training he completed in 2006. Trooper Donaldson alleged he was assaulted and injured during the training which resulted in lasting psychological damage.

1.5 Defence was questioned about its RTI training activities during the Foreign Affairs, Defence and Trade Legislation Committee's additional estimates hearing in February 2016. The Chief of Army, Lieutenant General Angus Campbell, was questioned about the nature of the training, but he declined to answer the questions due to their sensitive nature.

1.6 In March 2016, the Chief of Army wrote to the committee in relation to a Senate motion requesting that the committee be given access to all recordings made by the ADF of RTI training. While the Chief of Army agreed to provide sample video recordings under appropriate arrangements to maintain the integrity of the training, he stressed:

The provision of what amounts to thousands of hours of video is not practical and I respectfully request that the committee consider viewing a sample of video from various stages of the training, which could then be narrated and described in person by a subject matter expert...Also, to ensure careful management of the video footage, I would prefer that it is viewed at Russell Offices where I can ensure the necessary security controls are established and maintained.¹

1.7 In further correspondence with the committee in April 2016, the Chief of Army drew attention to what he considered were 'real and serious risks' to ADF personnel should sensitive information about RTI techniques and procedures be made publicly available. Publication of submissions which contain such material could enable an enemy to '...alter their tactics, techniques and procedures in order to improve their chances of successfully exploiting detained captured ADF personnel'.²

1.8 That inquiry lapsed with the dissolution of the Senate on 9 May 2016 ahead of the 2 July 2016 federal election. The video package being put together by Defence was not finalised by that time. The committee received six submissions for that inquiry but no public hearings were held.

1.9 At the commencement of the 45th Parliament, the committee recommended to the Senate that the inquiry not be re-adopted in the 45th Parliament. The Senate at the time agreed to the committee's recommendation.

Handling and consideration of sensitive evidence

1.10 On 21 November 2016, following referral of the inquiry to the committee for a second time, the Senate agreed to a motion ordering the Minister for Defence to table all recordings of the ADF's resistance to interrogation training programs by no later than 3.30pm on 28 November 2016.

1.11 The minister's response was presented out of session on 25 November and tabled in the Senate on 28 November. It outlined a number of reasons why the provision of thousands of hours of video 'is not practical' including national security

1 Committee correspondence dated 24 March 2016.

2 Committee correspondence dated 5 April 2016.

considerations, health and safety, duty of care and privacy requirements, and the need to seek the consent of all individuals who appear in the videos.

1.12 The Minister's response requested that the Senate:

...agree to the committee viewing a sample of video from various stages of the training, which could then be narrated and described in person by a subject matter expert as part of the broader Senate inquiry. This would complement Defence's submission.³

1.13 Consistent with the Minister's response, a sample video was made available for the committee to view in private session on 6 February 2017 at Russell Offices, as requested by Defence, along with a confidential briefing by a subject-matter expert.

1.14 The committee held one in camera hearing on 7 March 2017. The committee agreed to include in its report evidence from the hearing that would enable readers to understand the basis of the committee's findings and recommendations, while also maintaining the anonymity of witnesses. This evidence includes some non-sensitive information provided by Defence in response to questions taken on notice. The committee informed witnesses in advance of its intention to publish some of their evidence and invited any objections to publication. No objections were raised with the committee.

Structure of the report

1.15 Chapter 2 provides a brief overview of the main issues raised in evidence during the inquiry. Chapter 3 includes the committee's conclusions and recommendations.

3 Committee correspondence dated 25 November 2016.

