

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S PORTFOLIO

Group: 2

Program 1.8

Question No. SBE14/047

Senator Xenophon asked the following question at the hearing on 20 November 2014:

Senator XENOPHON: Can you provide details, but obviously nothing that will identify the alleged perpetrators or those possible abuse victims, of the promptness of responses from the CDF and how many matters are still outstanding where specific allegations have been put to the CDF about alleged perpetrators still serving in Defence, and what has happened in respect of that, because that does quite frankly concern me, given the gravity of the allegations made. Is there a regular follow-up with the CDF, given the seriousness of these allegations?

Mr Hall: There is a regular follow-up—

Senator XENOPHON: How regular is it—monthly, bimonthly?

Mr Hall: There have been some pieces of correspondence from the chair of the task force and the CDF and there are regular meetings that I hold with the head of the organisational response unit in Defence, covering various matters. That is a matter that is followed up during those meetings, as well. In relation to the numbers and the specifics of your question, I think I should take that on notice, because I do not have up-to-date information, and that of course will be a matter for Defence.

The answer to the honourable senator's question is as follows:

The CDF provided responses in relation to these matters on the following occasions:

On 25 September 2014, the CDF, Air Chief Marshal Mark Binskin AC, wrote to the then Taskforce Chair providing information about Defence's consideration of the 19 cases in the letter of 16 October 2013 from the Taskforce Chair to the then CDF. Air Chief Marshal Binskin indicated that:

- Defence had reviewed the 19 matters referred in the letter of 16 October 2013 to the then CDF, to identify whether there were any other personnel involved and to gain a better understanding of the ADFA environment in the 1990s, and had referred each matter to Australian Defence Force Investigative Service for formal assessment;
- as the alleged offences occurred outside the five year statutory limitation in the Defence Force Discipline Act, disciplinary action against any alleged perpetrator in those cases was no longer possible;
- if complainants provide consent to be contacted by Defence, it may be possible to refer some of those matters to civilian police, and that Defence was working with two of these women to obtain relevant court or civilian police records to assist Defence in determining what, if any, administrative action was available;

- eight matters were still under consideration, however, in a number of these matters the ability of Defence to obtain evidence to support administrative action was constrained in the absence of consent of the subject of abuse (options were still being considered for one of these matters and three others were likely to be referred to the relevant Service Chiefs); and
- no further action would be taken in relation to 11 of the 19 matters due to a lack of evidence, a lack of a clear allegation, an inability to identify an alleged perpetrator or the lack of consent from the subject of the abuse to be contacted by Defence.

On 13 November 2014, Air Chief Marshal Binskin again wrote to the then Taskforce Chair providing information about Defence's consideration of the additional 14 cases in the letter of 8 September 2014. Air Chief Marshal Binskin noted that:

- Defence had conducted an assessment of each of the 14 matters to determine if there was any further action Defence could take; and
- Defence had assessed that Defence was not able to take further action on 10 of these matters unless, or until, the relevant complainants provided consent for Defence to contact them (this included four matters where no alleged identified perpetrator was currently serving in Defence, and a further six matters in which the Taskforce had noted that appropriate management action was taken at the time, or that it was not possible to act at the time, due to the unwillingness of the complainant to identify a perpetrator).

On 19 December 2014, the Director General Cultural Reviews Response wrote to the Taskforce Chair to advise that the CDF had been in contact with the subject in one case referred in the letter of 8 September 2014, and would not be taking further action in that case pending confirmation of her wishes.

In addition to this correspondence between the then Taskforce Chair and the CDF, the Taskforce followed up on the progress of these matters on the following occasions:

- On 26 May 2014, the Taskforce Executive Director raised the ADFA 24 cases with the Defence Organisational Response Unit at a regular monthly meeting (the Taskforce understood that matters were still under consideration).
- On 27 June 2014, the Taskforce Executive Director raised the ADFA 24 cases with the Defence Organisational Response Unit at a regular monthly meeting (the Taskforce understood that matters were still under consideration).
- On 25 July 2014, the Taskforce Executive Director raised the ADFA 24 cases with the Defence Organisational Response Unit at a regular monthly meeting (the Taskforce understood that matters were still under consideration).
- On 8 September 2014, the then Taskforce Chair wrote to the CDF providing an analysis of an additional 14 cases and making recommendations for Defence to consider taking further action in four cases, as noted above. In this letter, the Chair requested that the CDF provide him with information about the steps that Defence had taken to consider possible action in relation to the cases referred in October 2013 as well as the cases referred to him in this letter.
- On 26 September 2014, the Taskforce Executive Director raised the ADFA 24 cases with the Defence Organisational Response Unit at a regular monthly meeting (the Taskforce understood that some matters were still under consideration).

- On 23 October 2014, the Taskforce Executive Director raised the ADFA 24 cases with the Defence Organisational Response Unit at a regular monthly meeting (the Taskforce understood that matters some were still under consideration).