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References Committee**

SUBMISSION COVER SHEET

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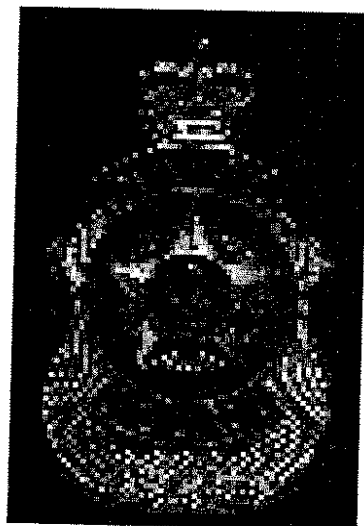
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PERSONAL SUBMISSION

**SENATE INQUIRY
INTO THE
EFFECTIVENESS OF AUSTRALIA'S
MILITARY JUSTICE SYSTEM**

BY

LIEUTENANT COMMANDER B.A. SANKEY, RAN



SUMMARY

Introduction

1. My name is Brian Anthony Sankey I am a Lieutenant Commander in the Royal Australian Navy. I am a current serving Naval Police Coxswain (NPC) officer within the Directorate of Security-Navy/Provost Marshal-Navy office. I have served over 27 years in the Navy, 18 years as a member of the Naval Police and Naval Police Coxswain categories.

2. I appreciate the opportunity to address one particular item in the Terms of Reference, that being;

“(a) the effectiveness of the Australian military justice system in providing impartial, rigorous and fair outcomes, and mechanisms to improve the transparency and public accountability of military justice procedures”

3. In particular this submission relates to the effectiveness of the NPC category to provide the Navy with an effective policing and investigative capability. This submission is a private submission and I am not acting on the behalf of the Royal Australian Navy (RAN) or any other individual.

4. Navy recognises that the NPC categories primary role in the Navy is Policing. However, the Navy has continued to focus the category on other duties to the detriment of this primary role. In my opinion the effectiveness and efficiency of the NPC category, and in particular the law enforcement aspects, are at an all time low. In the case of NPC sailors this has occurred due to the requirement to find NPC's something to do at sea to complement their discipline role. While for NPC officers it is sadly a case of neglect with little interest in the professional development of the categories officers.

Key Observations

5. The military justice system can never be effective in Navy until management gives policing and law enforcement the prominence that it rightly deserves. The proficiency of the Naval Police Coxswain can only improve after senior Navy management realises the important requirement to have a consolidated, independent and professional investigative service.

Recommendations

6. To improve the effectiveness of the Navy military justice system and how it is affected by the NPC category, the following recommendations should be considered:

- a. the results of the investigation into the Bulletin Article and the Farthing report should be released and the individuals affected informed of the outcomes (*paras 27 and 28*);
- b. the PM-N must be a dedicated NPC officer billet (*paras 29 to 32*);

- c. the PM-N should report direct to Deputy Chief of Navy (*paras 33 to 35*);
- d. NPC investigators must maintain stability in postings (*paras 36 to 39*);
- e. a restructuring of the NPC category to remove the necessity for NPC's to serve on minor war vessels (*paras 40 to 45*);
- f. NPC Investigators should not normally be posted to a sea or non-dedicated investigations billet (*paras 46 and 47*);
- g. review the DFDA restrictions on investigation of Service offences in Australia (*paras 48 to 51*);
- h. PM-N be the category sponsor for NPC officers and sailors (*para 52*);
- i. review the NPC equipment and resources (*paras 53 and 54*);
- j. implement direct entry recruiting for NPC officers and sailors (*paras 55 to 58*);
- k. identify a suitable course for NPC officers (*paras 59 to 62*);
- l. develop an NPC officer career structure (*paras 59 to 62*);
- m. identify suitable military and civilian police training courses (*paras 63 to 66*);
- n. implement a strategy to recruit and use civilian police officers as Reservists (*paras 67 and 68*);
- o. DPSMS should be managed by a central ADF location (*paras 69 to 70*);
- p. establish a PM-ADF organisation (*paras 71 to 73 and ANNEX A*);
- q. PM-ADF to be the Head Defence Investigative Authority (*paras 71 to 73*); and
- r. organise exchange postings or detachments with other civilian and military police organisations (*paras 74 to 76*).

INTRODUCTION

Naval Police Coxswain History

7. In July 1913 the Navy established a guarding and policing force at several naval installations in the Sydney area to replace Light Infantry of the Royal Marine. On formation this force was titled 'Naval Dockyard Police'. Members of this force were recruited as civilian employees of the Royal Australian Navy.
8. The 'Naval Dockyard Police' continued to grow during World War I and the roles and functions of the category expanded from guarding into the field of special investigations, which included 'secret service detective' duties. However, the legal status of the force continued to be of concern and was not rectified for a considerable period.
9. In Victoria, at Flinders Naval Depot, an arrangement was made between Navy and Victoria Police to make the Naval Dockyard Policemen supernumerary members of the Victoria Police, with all the powers and privileges of a full member of the State Police Force. This was followed in NSW where all Naval Dockyard Policemen were made special Constables of the NSW State Police. However, some of these arrangements did not work and didn't give the Force sufficient powers under the Naval Discipline Act.
10. This situation was rectified when Naval Dockyard Police ceased to be a civilian organisation in 1923, and entered the Permanent Naval Forces as an Auxiliary Service. In NSW, and some other states, a number of Naval Dockyard Police retained their special constable status, as they were required to police civilian dockyard workers.
11. During World War II the forces guarding roles expanded and members were employed across Australia. It was not until 1972 when the 'Naval Dockyard Police' ceased to be an auxiliary force, became a branch of the RAN and retitled Naval Police. Nearly 400 personnel were employed in Physical Security, Fire Protection and Investigation functions in every state and territory, with the exception of Tasmania and South Australia. This category was capable of sea service but was not required to serve at sea, as there were no designated sea positions. Naval Police Investigators continued to be special constables and detached for periods with the NSW Police¹. Naval Police Investigators were permanently posted to the Investigation Section and generally remained there as long as they held their qualification.
12. The Coxswain category was the sea going disciplinarian responsible to the Commanding Officer for good order and discipline of the crew. The category was also required to perform other duties such as seamanship functions, maintain leave, movement and victualling records, prosecutions and carry out minor investigations. The more serious or complicated offences or incidents were handed to Naval Police to investigate.

¹ <http://members.optushome.com.au/steveatv1/DEFAULT.htm>

13. In 1991 the Naval Police and Coxswain categories were amalgamated and retitled 'Naval Police Coxswains'. The amalgamation was considered a viable option as 40 percent of both categories training was similar. The traditional guarding duties of the Naval Police coxswain were eventually contracted to civilian guarding services and fire duties transferred to the RAN Fire Fighter Category. The new category duties included maintenance of discipline, investigations, security, guarding, movements, leave, victualling and seamanship (which included patrol boat navigation).

14. Later in the early 90's, with the disestablishment of the Fire Control Category, the Naval Police Coxswains took on the additional role of Whole Ship Co-ordinator. This function is generally only performed by the NPC category at sea and is responsible for whole of ship personnel management such as roosters, bunks, movements, and leave. In most cases this has taken considerable time and focus away from discipline, policing and investigative duties.

NPC Today

Role

15. The approved roles of the NPC category are:
- a. Discipline and Law Enforcement
 - b. Force Protection
 - c. Whole Ship Co-ordination, and
 - d. Seamanship and Navigation.

Law Enforcement

16. I see that discipline and law enforcement are two separate functions. Within Defence any officer or senior/junior non commissioned officer is responsible for the good order of military discipline. Where law enforcement requires a specialised skill of being able to collect, preserve and present evidence to a recognised court.

17. Law enforcement within Navy is the only role of the NPC that can not be carried out by any other category. This role is almost entirely conducted by the Naval Investigative Service (NIS). It is an important function that must be capable of deploying overseas or on operations. No one else has the ability or the legal jurisdiction to investigate serious Service offences outside Australia or on active duty. Investigations are conducted under the requirements of the Defence Force Discipline Act 1982 (DFDA).

18. All notifiable incidents must be reported to the Head Defence Investigative Authority (HDIA) for determination on who should investigate an alleged offence or incident. An incident is a 'Notifiable Incident' if it raises a reasonable suspicion that an offence may have been committed against the DFDA, the criminal law of the Commonwealth, States or Territories, or the criminal law of another country and

involves a Defence member, Defence civilian, Defence contractor, Defence consultant, other ADO personnel or ADO premises².

19. Presently, HDIA has been delegated to the Officer in Charge Naval Investigative Service (OIC NIS) in Sydney. As of the middle of January 04 there were 26 Investigator billets with the NIS Sydney with six (6) billets being vacant. Of the remaining 20 personnel only seven (7) are qualified investigators with very few having any experience. I believe that this situation has continued to deteriorate and the shortage of qualified and experienced investigators has increased.

20. Investigation units are also located at HMAS ALBATROSS, STIRLING, CERBERUS and within the Inspector General's Office. These units are under the command of the relevant establishment for their day to day activities. The OIC NIS is only responsible for the professional conduct of investigators during an investigation. These investigation units are also suffering from a severe shortage of qualified and experienced investigators. At HMAS STIRLING two (2) Investigator billets were recently used as offsets to establish billets for random drug testing and manager of Endeavour house (accommodation area in Sydney).

Discipline

21. NPC's are also responsible for the enforcement of good order and discipline throughout the RAN, which encompasses DFDA administration. The difference between discipline and law enforcement is that, in general, discipline matters are minor service offences that relate to failure to comply with a lawful command or direction. Where law enforcement requires the investigator to be competent in collecting evidence, interviewing suspects, crime scene preservation and an understanding of complex police procedures and ability to present evidence to a court.

22. Discipline is and should not be unique to the NPC category, every Officer, senior sailor and Leading Seaman is responsible for the enforcement of discipline in accordance with the DFDA. Discipline matters should be minor offences such as failure to comply with a general order or command, absent from place of duty, prejudicial behaviour etc. A Discipline Officer or Commanding Officer can hear most of these minor offences, under the DFDA, without the investigating personnel requiring any detailed specialist investigative training or skills.

Force Protection

23. Although force protection includes counter intelligence, security, and prisoner handling and tactical questioning (PHTQ), in reality it is only PHTQ that is primarily conducted. NPC members receive little training on the other aspects of force protection. The recent NPC review has identified that force protection, other than PHTQ, should be removed as a function of the NPC category as they have little skills and experience and cannot consolidate training in this field.

² Defence Instruction (General) ADMIN 45-2 - *Reporting and Investigation of Alleged Offences within the Australian Defence Organisation*

Whole ship Coordination

24. NPC personnel provide impartial management of human resources in ships and establishments. The senior NPC sailor borne is designated the role of Whole Ship Coordinator (WSC). In effect, the WSC roles is the primary operational function of the senior NPC sailor at sea because the outcome of competent whole ship coordination supports the Command's mission of achieving and/or maintaining the required level of military capability³.

25. Whole ship coordination has only been a function of the NPC category since the mid 90's. Previously a senior Fire Control category sailor carried out this activity on a full time basis. On the demise of the Fire Control category whole ship coordination duties were transferred to the NPC category. A discussion with a number of NPC's carrying out the role of WSC indicates that in most cases the whole ship coordination activities at sea takes the majority of the available time, which allows little time for discipline and law enforcement.

Seamanship and Navigation

26. In Minor War Vessels (MWV) the NPC sailor performs bridge watchkeeping duties as Officer of the Watch. In the absence of the Chief Bosuns Mate in MWV the NPC sailor is also responsible for the safe conduct of seamanship evolutions. The NPC sailor may also be required to perform Watch on Deck, Quartermaster, and helmsman duties on any class of ship. NPC's find it difficult to consolidate their seamanship training and they may only use their navigation skills for one or two postings at the most.

CONCERNS

NPC Reviews/Inquiries

27. Over the years the NPC category has been reviewed to death at mainly the expense of discipline and law enforcement. The recent review, which is still underway, will not significantly change the roles and responsibilities of the NPC category, nor will it significantly address the haemorrhaging of qualified and experienced investigators and NPC's in general. This review is extremely conservative and will not reduce the level of functions or improve the experience levels of the NPC, especially in regards to law enforcement.

28. There have also been a number of Defence inquiries into the Naval Investigative Service, in particular the Bulletin Magazine article into allegations of gun running and other misdemeanours by the NPC category. This article was published in October 1997 and titled "Rape, Loot and Pillage in the Royal Australian Navy". The then Minister of Defence Science and Personnel directed the Inspector General to undertake an investigation into the allegations. Other inquiries, such as the Farthing Report, a Naval Support Command initiated Defence inquiry, have also looked at the management of the Naval Police Coxswains and in particular the Naval Investigative Service (NIS), including allegations of misconduct. Despite extensive

³ Defence Instruction (Navy) ADMIN 45-1 - *Naval Police Coxswain Category*

questioning of a number of personnel I don't believe that anyone has been officially informed of the outcomes, or have the results been made public or published, or has anyone been charged in relation to those allegations. NPC's were looking to these inquiries to identify and rectify any perceived anomalies within the NPC organisation.

Concern

The lack of results from reviews and inquiries of the NPC category have not only effected the morale and esprit de corps of the members but have failed to identify and rectify the lack of policing, investigative, and management skills of the NPC category within Navy.

Recommendation

The results of the investigation into the Bulletin Article and the Farthing report be followed up and outcomes promulgated.

Provost Marshal - Navy

29. Director Security-Navy/Provost Marshal-Navy (DSEC-N/PM-N) is responsible for Navy security and policing policy development and the provision of specialist advice to the Chief of Navy (CN) and sub-program managers and is the NPC officer sponsor⁴. The Head Defence Investigative Authority (HDIA) of the Service Police organisations is the Provost-Marshal of the Navy, Army or Air Force⁵.

30. The Provost Marshal - Navy (PM-N), the position seen to be the head of the NPC category and responsible to CN for policing policy is not a dedicated NPC position, the billet has been designated as maybe any structure. Since the early 90's officers who have had no experience in policing have filled the PM-N position. Until this year, with the promotion and posting of the next PM-N in March/April 04, the incumbents have been Seaman Officers who have tended to focus on Security to the detriment of Policing. Both Army and Air Force have Service Police Officers as their Head of Corps and Provost Marshals.

31. The CMDR NPC promulgated to take over the position of PM-N in March/April transferred to the NPC category as a senior Lieutenant seaman officer (was promoted shortly after) and has never held a policing or investigative position or has any experience in policing or investigations whatsoever. As far as I am aware he has only been posted to one NPC position, which was responsible for navy vetting policy all other postings have been to billets that can be filled by personnel from any primary qualification. The current Reserve Officer temporarily filling the position is a Seaman Officer who has not served, except for a couple of brief periods, for 10 years. Consequently, the position will again lack any credibility and senior naval officers have provided a perception that they have little faith in the NPC category as a whole to run the category. Intentionally or unintentionally this has and will continue to

⁴ Defence Instruction (Navy) ADMIN 45-2 - *Naval Police Coxswain Category*

⁵ Defence Instruction (General) ADMIN 45-2 - *Reporting and Investigation of Alleged Offences within the Australian Defence Organisation*

focus the NPC category on security at the detriment of the NPC primary role of policing.

32. I can't believe the head of a State/Territory/Federal police service would not be a former police officer with extensive grounding and experience in policing. Nor is this the case in Army and Air Force where the PM position is a dedicated Service Police billet.

Recommendation

To focus the NPC category on their primary role and as head of corps, the Provost Marshal - Navy billet must be a dedicated NPC officer position.

Organisational Structure

33. PM-N currently reports to the Chief Staff Officer (Operations) (Captain rank) within the Navy Systems Command, who in turn reports to the Commander Australian Navy Systems Command (CANSC) (1* rank) through to Deputy Chief of Navy (DCN) and finally onto Chief of Navy (CN). Consequently, when PM-N is informed of a serious incident or offence the chain of command is so long that it takes a considerable period to properly brief DCN and CN. This separation from the PM-N can cause delays and has the potential to embarrass CN or DCN as they may not be fully aware of a particular incident or event. I am not suggesting that senior officers are interfering with the reporting of investigations but am concerned with the delays it takes to notify or make CN aware of serious incidents or offences.

34. Historically, the PM-N reported directly to the Deputy Chief of Navy, which ensured that senior Navy management were cognisant of the status of criminal activities within Navy. Since the Defence Reform Program was implemented the higher levels of Navy management have been divorced from the Provost Marshal's office. The consequence of this is that senior management are not fully aware of the extent of discipline and policing within Navy making it difficult for them to make informed decisions in relation to the effectiveness of the military justice system. Nor may they be fully aware of the difficulties being experienced by NPC investigators.

35. The NPC review team spoke with DCN in relation to the organisation structure of the NPC category. DCN was of the opinion that the provisions of investigative, policing and security services were a support function and therefore rightly belonged within the CANSC organisation. Although it is difficult to argue against this, it is important to distinguish between the provision of services and the duties and responsibilities of the PM-N, even if it means splitting the tasks. I believe that it is essential that DSEC-N/PM-N office (five (5) positions) should report directly to DCN. This will then provided Navy's senior management with the required oversight of policing and security. The investigations sections could be located under a separate command structure, which will be discussed later in the submission.

Consideration

To ensure that senior Navy management are fully aware of policing and security incidents, trends in criminal activity, and give the PM-N some credibility and status the Provost Marshal - Navy should report directly to Deputy Chief of Navy.

Naval Investigative Service (NIS)

36. In most cases Service Police carry out investigations of serious service offences under the DFDA. Notifiable incidents are reported in accordance with Defence Instruction (General) ADMIN 45-2 - *Reporting and Investigation of Alleged Offences within the Australian Defence Organisation* for a determination on who will carry out the investigation. Within Navy the NIS conducts investigations into the more serious Service offences, where a ship or establishment will investigate minor disciplinary offences.

37. NIS offices are located at HMAS KUTTABUL, STIRLING, ALBATROSS and CERBERUS, with a NPC located within the Inspector General's department. Generally these offices are undermanned and billets are filled with unqualified and inexperienced NPC investigators. This is mainly due for the requirement for NPC's to fulfil their sea going obligation.

38. This has been a problem since the amalgamation of the Naval Police and Coxswain categories. NPC investigators cannot hope to maintain their expertise when they are frequently posted to meet a sea service obligation, almost every two years. While at sea or posted to a non-investigator billet ashore they require a different skill set and cannot hope to maintain their proficiency as an investigator. In addition it has been determined that the NIS is a low priority for posting purposes, consequently, all sea billets, training and establishment NPC shore billets must be filled first. Over the past several years this has showed a significant deterioration in the investigative expertise of the NPC category.

39. NPC's have come under significant criticism in recent times at Defence Force Magistrate Trials and Court Marshal where full judicial process must be followed. The cause of this criticism is mainly the lack of proficiency of the investigating officer. This criticism is not unwarranted but it is not the fault of the individual. The NIS is short staffed, over worked and cannot hope to maintain their expertise while they are required to be posted every two to three years to carry out other specialist NPC duties both at sea and ashore.

Statement

Due to personnel shortages and the requirement to meet a sea service obligation NPC's posted to the NIS cannot maintain proficiency as investigators. NPC investigators proficiency will continue to be questioned by Navy courts until action is taken to remedy the shortfall of experienced and skilled investigators.

Sea Service

40. Chief of Navy policy is that if you don't have a job at sea then you don't have a job in the uniformed Navy. However, there is always an exception to this rule, for example, Lawyers, Nurses and Band members do not have dedicated billets at sea. Doctors, Dentists, and Chaplains must be capable of sea service but are not normally posted to a ship unless it is deploying overseas or on exercises.

41. There are no dedicated sea billets for NPC Officers, although having obtained a minor war vessel officer of the watch certificate there is a potential to post NPC officers as the Executive Officer. NPC Officers must retain their operational readiness but are not normally required to serve at sea.

42. The NPC does not have a combat role at sea that is specific to discipline and law enforcement. The role of the NPC does and should not change from peace to war, the primary purpose of the NPC is the maintenance of discipline to ensure that sailors and officers carry out the directions of Command. This important role cannot be underestimated and someone must carry out this function. In major fleet units and most minor war vessels this is carried out by the NPC category. On submarines and some other minor war vessels this function is performed by a senior sailor designated as the Chief of the Boat. There is nothing to prevent this system being introduced on all minor war vessels.

43. There is little argument from NPC's that they believe they are the most appropriate category to carry out the discipline and whole ship co-ordination duties on a major war vessel. However, there is no need for that individual to maintain an investigation qualification that he or she will seldom use. Basic and advanced NPC courses are sufficient for the purpose of investigating minor disciplinary offences. As all notifiable incidents are reported to the HDIA there is no chance that the NPC on board a ship should ever be required to conduct a complex investigation.

44. Should there be no requirement for an NPC on a minor war vessel or submarine the current Chief of the Boat training is sufficient for the conduct of minor DFDA offences. Minor war vessels and submarines have small, specialised crews that do not warrant a position for a full time law enforcement officer, disciplinarian, or whole ship coordinator. Again a qualified and experienced investigator can investigate any allegations or offences on an as required basis.

45. This would alleviate the requirement for seamanship and navigation training so that the category can concentrate on whole ship coordination and discipline at sea. Without the requirement for NPC personnel on Minor War Vessels the NPC category structure would need to be reviewed. Initial indications are that the entry rank for NPC category may need to be changed to the Petty Officer rank, as it would be more appropriate to have a CPONPC and PONPC on a MFU rather than a CPONPC and a LSNPC. Should this occur there would most likely be personnel savings.

Recommendation

There is no requirement for NPC billets on Submarines or Minor War Vessels. NPC's are required on Major Fleet Units but they do not need to be Investigator trained. The NPC structure needs to be properly reviewed to reflect these changes.

NPC Investigators

46. Investigators should come from the NPC category at least the Petty Officer rank. Once qualified as an investigator there should be no requirement for the member to be posted to a NPC sea billet or non-investigator shore position. Except for exceptional circumstance once a NPC member has qualified as an Investigator they should remain in an investigative billet. An NPC investigator should be fit and qualified to operationally deploy for sea or combat related duties. Should a member forfeit their investigation qualification they should return to a regular NPC billet and be subject to the normal sea service obligation. Similarly, if a NPC investigator were not able to maintain their medical category, normal administrative action in relation to retention should be taken.

47. This will ensure that NPC investigators retain their proficiency in investigations and provide Navy with available, talented, dedicated and experienced investigators that are capable of deployment to sea or operational duty as required. It will also help alleviate the problems with the retention of personnel in the NIS.

Recommendation

Investigators should be selected from the NPC category with a minimum rank of Petty Officer. To maintain skills and experience NPC investigators should be capable of sea service but not normally be posted to sea.

Limitations of the DFDA

48. The limitations placed on the NPC category with regards to the investigation of offences within Australia by Defence are unnecessarily restrictive and frustrating to the members. An example is that NPC's have been advised by Legal that they only have jurisdiction to investigate allegations of drug use within Australia that relates to cannabis leaf of 25 grams or less. Any other substance must be handed over to the relevant State or Territory Police service. NSW State Police have advised that they do not have the resources available to investigate these offences, nor do they investigate allegations of the self administering of illegal drugs, unless the amount of drugs are trafficable quantities.

49. Most criminal and serious offences committed by Defence personnel in Australia are handed to the relevant State or Territory Police force to investigate. Although this action is appropriate it does not assist the Australian Defence Force Investigator as they are required to conduct these type of investigations overseas or when operationally deployed outside Australia. The limitations of the DFDA within Australia do not allow the investigator to maintain their proficiency or gain experience in the investigation of serious Service offences, that they will be required to investigate outside Australia. Nor does it give a person suspected of an offence full

judicial process as these matters are currently subjected to administrative action instead of criminal or disciplinary action.

50. This can be easily alleviated without drastically changing the reasoning for handing over the investigation of serious offences committed in Australia to State or Territory Police. As is the present practice all notifiable incidents must be reported to the HDIA, in the process of determining jurisdiction the HDIA should approach the relevant State or Territory Police to assess whether they have the capacity to take on the investigation of a particular offence. If State or Territory Police will not or can not investigate the offence the HDIA should direct the relevant Defence investigation section to investigate under the DFDA.

51. In taking this action the Defence Force has taken the appropriate action to address the criminal aspects of the offence but has also ensured that discipline is maintained. The incident will then be fully investigated and the suspect given full judicial process in accordance with the DFDA.

Consideration

The current limitations of the investigation of offences under the DFDA within Australia should be amended to allow Service Police to investigate any offence provided the relevant State or Territory Police service is unable or unwilling to assist.

Category Sponsorship

52. The NPC officer primary qualification is managed by the PM-N while the sailor category sponsor is Training Authority - Maritime Warfare (TA-MW), as the NPC sailor category is considered part of the seaman branch. In reality the Chief Petty Officer NPC within TA-MW is determining the size and shape of the category and it's roles and functions without the appropriate consideration of the Provost Marshal - Navy. Once again this is focusing the category on seamanship or other duties and not their primary function of policing. In any case NPC's are unlikely to carry out the full range of seamanship duties on a regular basis.

Recommendation

To focus the category on it's primary role PM-N, as the head of the NPC category, should be the category sponsor for all NPC's not just Officers.

Resourcing

53. The NIS has a budget of approximately \$0.1m to conduct investigations in Australia and overseas. This budget must also purchase and maintain investigation equipment.

54. Although the current budget appears to be meeting the travel and subsistence for investigator personnel conducting investigations in Australia and overseas it is not enough to purchase or maintain equipment. The majority of NIS equipment is superseded or old technology with the equipment requiring constant maintenance. As far as I'm aware there has never been a study to identify what equipment is required

by the Service police organisations to enable them to conform with best practice policing and investigative standards.

Recommendation

A study is required to determine what equipment is required by NPC's and in particular the NIS, to meet best practice investigative techniques.

Recruitment

55. **Officers.** Officers are recruited to the NPC category from the ranks or transfer of officers from other Primary Qualification (PQ). This process limits the base from which to recruit an NPC officer and may not produce the best quality officers. Previously a number of NPC Officers transferred to the NPC PQ because they had either failed their initial course or their PQ had become defunct. The majority of these officers have left the Navy after short periods of service with the NPC category. Presently, personnel selected to become NPC officers receive no specialist officer training.

56. Air Force is similar but has broadened their officer selection process to include direct entry recruiting, this may also include the selection of ex-State or Territory Police officers as well as the normal off the street recruit. The new recruit then undergoes initial officer training before completing the RAAF Security and Police officer course. This ensures that RAAF Security Police have a wide recruiting base from which to select their officers.

57. **Sailors.** NPC sailors are recruited from other categories within the Navy once they have met the transfer of branch requirements. They then undergo initial NPC training at the Defence Police Training Centre prior to being awarded the NPC qualification. Due to the general shortages of personnel within Navy, the NPC category has not been able to meet its recruitment targets and as a consequence the category is consistently short of personnel.

58. To improve the effectiveness of the NPC category and reduce the shortages of personnel consideration should be given to the direct entry recruiting of NPC officers and sailors. A senior NPC officer should be involved in the recruiting selection process to ensure that the potential recruit has the appropriate maturity, aptitude and skills to become an NPC.

Recommendation

In addition to the normal recruitment process, to ensure the ongoing viability of the NPC category, direct entry recruiting should be implemented.

Training/competency

59. **Officers.** Presently NPC officers do not receive any specific formal police training, other than from their initial police or advanced training courses. This is unacceptable for the professional development of the NPC officer corps. I believe that the neglect of the officers can be contributed to the lack of concern of the

category in general and the fact that the head of the NPC corps is not a NPC officer. Since the early 90's the PM-N has been a Seaman officer who has no affiliation to the NPC category, is posted to the position for two to three years only, and then moves on to another seaman officer position or leaves the Service.

60. Historically, in addition to the normal officer selection process, NPC candidates were required to sit a professional test to assess their suitability and knowledge to become an NPC officer. After initial officer training NPC candidates were required to pass the Victoria Police Inspectors Course before being confirmed as an NPC officer. This course was a ten week residential course that focused on police management and operations. Several years ago a decision was made by the PM-N (at the time a non-NPC officer) to cancel the selection process and courses. An attempt was made to have NPC officers complete the RAAF Security Police Officers Course but was rejected by TA-MW as he considered that the RAAF competencies were similar to courses NPC sailors had previously completed.

61. An NPC officer must be competent to take charge of any major investigation, demonstration, crowd control, heightened security alert situation, prepare and implement policing and security policy, and administer Investigation departments and NPC personnel as well as the other myriad of routine tasks that are required to be performed by any Naval officer. With no training courses available to NPC officers it is unlikely that they will be able to perform their duties efficiently and effectively and this will eventually affect the effectiveness of the military justice system.

62. There also needs to be some formal structuring of Naval Police officer postings, where billets have been identified at all ranks so that an officer's experience and skills can increase commensurate to their career progression and responsibilities. This would ensure that by the time an individual had been promoted to PM-N they would have gained the relevant experience in all aspects of policing and security within Navy.

Recommendation

A formal course must be developed or identified for potential NPC officers to complete prior to or as soon as practicable after receiving their Commission.

An appropriate career structure should be identified to ensure that all NPC officers develop the necessary skills and experience to have the potential to fulfil the duties of Provost Marshal - Navy.

63. **Sailors.** The training of NPC's is extensive as they are required to obtain and maintain proficiency's in discipline, law enforcement, security, whole ship coordination, seamanship, navigation, and force protection.

64. Training of NPC sailors is conducted at the Defence Police Training School with common police training being conducted in conjunction with Army. The Senior Naval Officer's staff at the DPTS conducts navy specific training. This is a recent innovation and appears to be successful. Army at the DPTS conduct investigator training for the three Services.

65. Once posted to the NIS some NPC members will undergo further training in the investigation of sexual assaults and document examination. Although training in these fields are required the Navy needs to identify and fund further training in other fields that will broaden their expertise.

66. Previously some NPC's attended the Victoria Police Detective Training School courses and others participated in the NSW Police detective courses. Additionally, some NPC personnel conducted the NSW Police fingerprint course and were seconded to the NSW Police to consolidate their training. If NPC's are going to continue to investigate crimes in Australia and have the potential to investigate the most serious Service offences outside Australia or on operational deployments NPC's must receive the most up to date training to ensure the continued viability of the military justice system.

Recommendation

NPC officers and sailors must participate in Military and Civilian Police training courses to maintain their ability to investigate offences and manage investigations in Australia and overseas.

Use of Reserve NPC's.

67. There needs to be an increase or broadening of the recruitment base for NPC Reserves. One way to do this is to recruit NPC reservists from the civilian police forces. An obstacle to this in the past has been the requirement for sea service. Should NPC investigators be exempt from sea service (although still capable of going to sea to carry out investigations) there would be no requirement for them to undergo or have experience in all the other duties of the NPC (such as whole ship coordinations, leave and movements, seamanship etc). They would simply be employed as NPC investigators.

68. This has the potential to solve the shortfall of experienced investigators and increase the professionalism of the NPC investigator in general, as they would be exposed to personnel who have considerable expertise and skills in civilian police practice and procedures. This initiative would also allow for surge capability for higher profile investigations or overseas investigations where the Navy might be looking for particular skill sets. Also these personnel could be used on periods of Reserve service in locations where NPC investigators do not have a presence.

Recommendation

Navy should commence a campaign to recruit appropriate state or territory police officers as Reservists to work as NPC Investigators.

Defence Policing and Security Management System (DPSMS)

69. The current discipline management systems is DPSMS, it is managed by the Inspector General's office. The system is universally hated by just about all Service police personnel, is difficult to use, is oriented toward fraud and does not provide accurate statistics. The system does not have connectivity between the Services that

will enable statistics to be drawn from a central location. Inspector General's office is currently attempting to update the systems to improve its functionality.

70. I don't believe that the Australian Defence Force (ADF) police and security records management database is best run by the IG organisation, which is focused on fraud only. The system should be managed by one ADF organisation from a central location. This will ensure that data input and accurate statistics will be consistent across the Services. Informal discussions with the newly formed Inspector General ADF office have indicated that they would not be willing to take on this function. In this case I would envisage the establishment of a Provost Marshal - ADF who would take on the role of Head Defence Investigative Authority for Defence and control and manage the discipline records section.

Recommendation

The management of the DPSMS should be reviewed and controlled from a central location within Defence.

Establishment of a ADF Provost Marshal

71. As previously stated and in line with the views of DCN, the provision of investigative services do not fit comfortably under the DCN structure. Also the management of the DPSMS would be more beneficial if it were controlled from a central ADF location. To achieve this aim there is a need to establish a Provost Marshal of the ADF responsible for all investigations and DPSMS.

72. I see that this position would work directly to Vice Chief Defence Force (VCDF) and take over the role of Head Defence Investigative Authority (HDIA) for Defence. This would ensure that all investigations are impartial and that all records and statistics could be obtained from one location. PM-ADF would be responsible for determining the most appropriate authority to carry out an investigation, quality assurance of all investigations and the development of investigative policy and procedures. These positions could be created using the existing Service police investigator positions as offsets and could be structured to accord with the relevant Service. An example of the organisational structure is enclosed at the ANNEX. This is only an example and could be smaller or larger depending on the requirements.

73. The individual Service Provost Marshals would remain carrying out the routine discipline, policing, and security functions but all investigators should be transferred to the PM-ADF organisation. IG's would continue to conduct relevant fraud investigations, as is presently the case for Defence. This would be organised in consultation with the PM-ADF.

Recommendation

Establish a PM - ADF position responsible for investigations, investigative policy and procedures, DPSMS and act as the HDIA for Defence.

Exchange postings/detachments

74. To increase the professionalism of the NPC category it is important that both officers and sailors can have the opportunity to work with other law enforcement agencies, both civilian and military.

75. There should be no impediment for organising exchange posting or detachments between the Services or if the investigation arms are amalgamated then between other countries such as US, UK, Canada or NZ. This would not only act as an incentive for NPC personnel but also increase their professionalism.

76. Ideally consideration must be given to arranging a detachment to a relevant squad in a State or Territory Police Service. NPC investigators could be made special Constables and work in the drug, burglary or any other relevant squad. Again this would increase the long term effectiveness and efficiency of not only the individual but the category as a whole.

Recommendation

Consideration should be given in organising exchange postings or detachment to civilian or military police services.

Brian Sankey

ANNEX:

A. Proposed PM-ADF organisational chart.

